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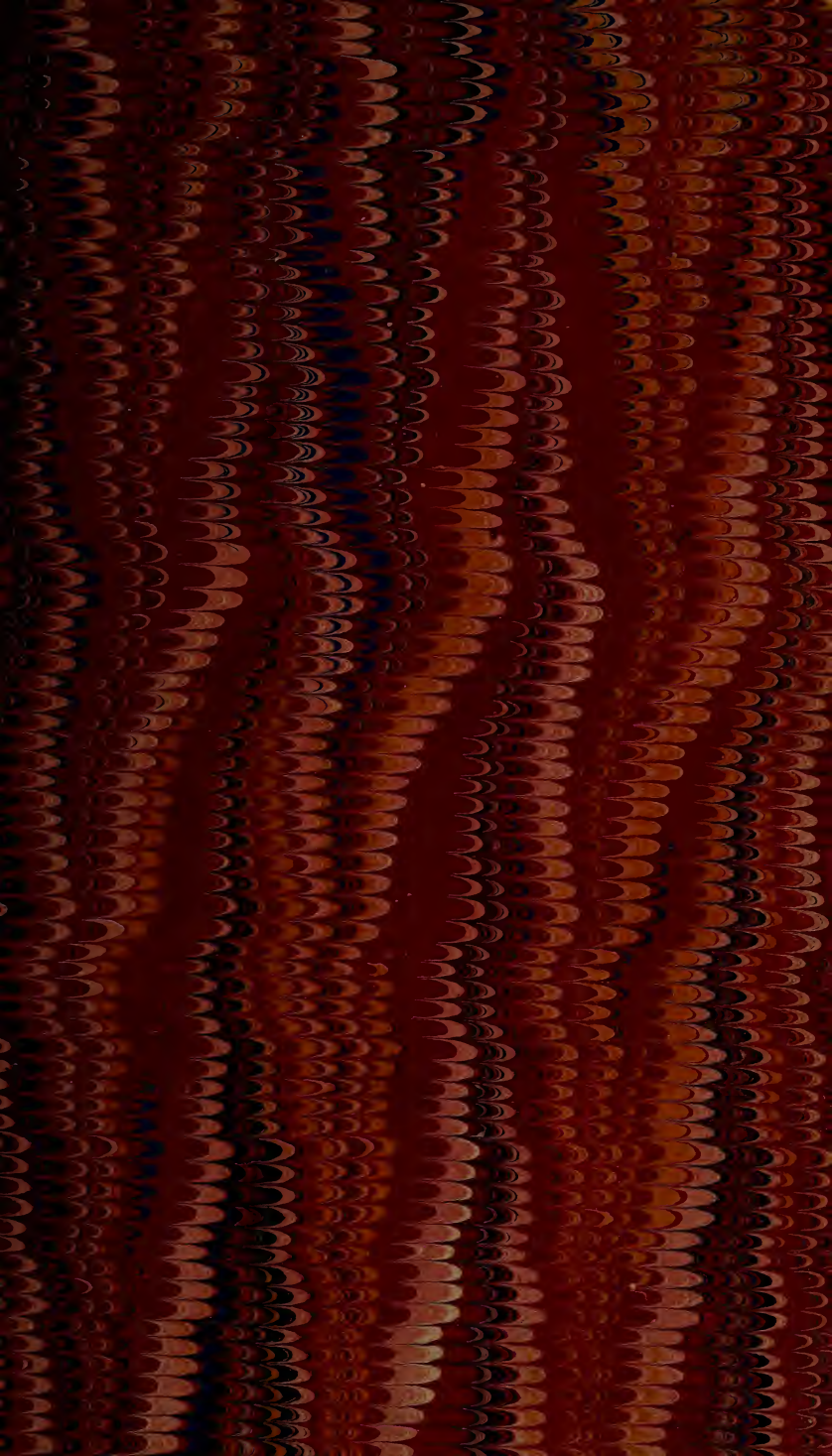
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Chap. JK 216

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UNITED STATES OF AMERICA.



ON

SELF-GOVERNMENT;

TOGETHER WITH GENERAL PLANS OF A

STATE CONSTITUTION,

AND A CONSTITUTION FOR A

CONFEDERATION OF STATES,

FOUNDED ON THE PRINCIPLE OF SELF-GOVERNMENT;

ALSO,

TWO EXTRACTS, ONE FROM THE CONSTITUTION OF THE
UNITED STATES OF NORTH AMERICA. THE OTHER
FROM THAT OF THE STATE OF KENTUCKY.

TO WHICH IS ADDED

THE NEW CONSTITUTION OF

THE STATE OF NEW YORK,

EXAMINED ACCORDING TO THE PRINCIPLE OF SELF-GOVERNMENT.

~~~~~  
"For he who values liberty, confines  
His zeal for her predominance within  
No narrow bounds; her cause engages him  
Wherever pleaded."—COWPER.

"We have no strength except upon great principles."—ELIHU BURRITT.  
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P R E F A C E .

TO THE READER.—

THE idea of Self-government is one of those few great ideas, which lead mankind to personal and social perfection. We are endowed with reason, for the purpose of governing ourselves. This being the most difficult task which men have to perform, it will be only in a very remote time *universally* realised.

The following lines are written to show the practical working of this idea, and the consequences of losing sight of it. *The idea of Self-government, is the main cause of all great social reforms and revolutions.* We are indebted to it for all the good which we have derived from our Revolution. The perpetuity of this good depends alone upon a clear and general understanding of its influence on society. This understanding, nothing else, would promote.

THE AUTHOR.

August, 1847.

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ON

SELF-GOVERNMENT.

1. THE word, Self-government, is of American origin. Its meaning is,—*Rational, candid and manly conduct and independence in our concerns, which does not admit the interference of others.* It is the fruit of Liberty in America, and is but very little known in Europe and Asia.

Men are generally governed either by the sword, or by hereditary rulers; sometimes by ecclesiastical power, and again by landed, or feudal, or moneyed aristocracies;—and finally, by a skilful combination of these different material forces. We have had republics in Greece, Italy, Germany, Holland, France, &c.; there are a few left in Europe. If, however, we examine their policy, we shall find that it differs so much from that form of state government which we call self-government, that, to avoid mistake, we hesitate to apply the word Republic to our self-governments. The instability of all these fabrics proves that they were ill adapted to the nature and laws of human society. As human society is everlasting, states will be perpetual too, if their organization and policy are in harmony with the laws which are at the bottom of human society. We are satisfied that the Americans approached nearer to that end than any people before, when they based their States and Confederation upon the principle of self-government.

We intend to examine the present condition of the American States, to ascertain how far they really are in harmony with the principle of self-government, and if we should find this not to be the case, to show how they might be brought back into the right way. It is, therefore, perhaps superfluous to remark, that we consider a self-government, as it has been started in North America, as the only true form of government. Still, we cannot conceal, that, in the beginning, some faults were committed, and that in the course of time we have fallen back in many in-

stances, inadvertently perhaps, upon the very track which, as history shows, guided to the downfall of bygone republics, instead of improving what was begun so nobly half a century ago. Thus we think it not superfluous to lead the attention of our readers to this most important subject.

2. Self-government is either *personal* or *social*.

3. Men acquire personal self-government by *Education*, *Instruction*, and *Industry*, in the most comprehensive sense of these words. By means of education, instruction and industry, and only with their help, we become intelligent, virtuous, useful and independent men, and able to govern ourselves for our benefit and that of others. The end of all education, instruction and industry, must be goodness, intelligence and independence, from which originates personal self-government.* It is true that virtue lies at the foundation of personal goodness; still the notion of virtue implies not exactly that energy of *character which chiefly makes a self-governing man*. Louis XVI., king of France, is said to have been a virtuous man, but most certainly he was not a self-governing man; otherwise he would have braved the storm of the French Revolution.

Thus, it is evident, that personal self-government is more than virtue. The notion we gave of self-government shows, that a self-governing man not only is a perfect man, but also a perfect member of human society, who does not permit himself to be guided by others, as they please, either by the sword or by any other force, because he is able, and always ready to guide himself personally alone, and, of course, will respect the same quality in others. Hence it follows, that personal self-government will have a thorough peaceable tendency. *In proportion as personal or individual government becomes universal, in the same proportion social government will be less necessary.*

4. Social self-government originates in *families*. Our race consists of families, and is perpetuated by them. They are the little natural states, where the labor of education and instruction is chiefly done, both of which lead to industry. Men who like the wild Indians are without *education* and *instruction* are also destitute of *industry*. The establishing of families, the providing of the manifold requisites for their support, the multifarious occupations hence originating, produce conflicts, which make forms and rules and

* Also called Self-control, Self-rule, Self-dominion.

laws necessary, the knowledge and observance of which are indispensable for self-government. All do not know them, and if they do, are not always inclined to obey them, (in consequence of want of personal self-government,) hence originates that kind of business, which generally is called *public business*, or *civil government*, *state business*, &c.

Where personal self-government in a great measure is wanting, as in Mexico or South America, and in most European countries, this public business (state business,) is rather in a deplorable state, and conducted mostly according to one or the other principles of physical force, which necessarily leads to subjection. It is in vain to expect that the public business will ever be done in a fair way among men who do not understand how to govern themselves, or, in other words, to take good care of themselves.

5. The (physical and moral) education of our young is the first business we have to examine in regard to the principle of self-government. It is one of the most important duties men have to accomplish, and requires chiefly the unwavering care and unceasing attention of woman, whereas they take no active part in public affairs. It is true that in America, education is left more nearly free than any where else. The interference of ecclesiastical institutions, perhaps only the Catholic excepted, is not of great consequence. But there are nevertheless several instances, where the laws and activity of public officers are not in strict conformity with self-government in regard to the liberty of education. We mention first the Orphan Asylums. Orphans ought not to be crowded into houses together, but educated in families. Further, our states begin to interfere, more and more, with the liberty of education, in regard to elementary schools. It is the right and duty of parents (guardians,) to take care of the schooling of their offspring, and not the business of the state.

6. *Instruction*, the other great lever of self-government, may be either elementary, religious (churches,) moral, scientific, mechanic, or otherwise, and is also mostly depending on parents (guardians.) When they are not able to accomplish it alone they may engage teachers or masters to do it. True, self-governing men never will neglect this duty. The interference of states in the business of education and instruction leads to centralization,

to the adoption of narrow systems, to education for political purposes, to the increasing of state business and expenses, to political patronage, and to the alienation of the popular mind from the subject.

This liberty of instruction is indispensable for the practical development of our faculties. The comparatively universal diffusion of knowledge among all classes in the United States of America, is a product of this liberty. It awakes that eager spirit for information which seems to die away where governments take the lead ; or will be perverted or poisoned by politics, as is already the case in some of our states. The freemen in towns are at full liberty to establish town schools for all ; they are at liberty to raise the expenses by direct taxation ; this is their business. But the state herself has nothing to do with it. It is the same with scientific institutes. The avenues to science are at present so easy that every person may get all kinds of information if he only will make use of the means which surround him. State interference will lead to state religion, state medicine, state jurisprudence, state military schools, &c., which are all more apt to hinder, than to promote the natural progress of science. It is a part of the liberty of industry, to be a teacher and a master ; both, if qualified, will find pupils. We do not take side with barbarism, but we know the tendencies of such state institutions too well not to be prepared to speak of them otherwise than with the highest distrust in regard to the liberty of instruction, and its bearing on self-government. We shall find hereafter opportunity to state, that acts of incorporation are against liberty of industry ; we therefore mention only in this connexion, that true science gains nothing by the incorporation of such institutions. Arts and sciences flourish most where left alone. We add, in the appendix, a plan of a constitution for a State, according to the principle of self-government. In section 2, it is said that no person shall have the right of suffrage who is not sufficiently able to read, write and speak the language in public use. Thus we may provide by a law for instruction. All other arrangements are better left to the people alone. If we allow governments to do more, it will be done at the expense of the liberty of instruction and wise economy, a principal object in our times. The same may be said of churches and church associations ; as valuable as they are for the purpose of

instruction in practical religion, still they will operate as well, and perhaps better, without corporate rights as with them. Indeed it is for the purpose of securing these rights that church establishments are aiming at public influence, jurisdiction and political power. And has not governmental interference, at all times, hindered the quiet useful working of religious institutions? What has corrupted true Christianity more than its connexion with states? Meeting-houses may be built, and teachers of religion paid, as well without charters, and without the rights of a body politic, as with them. Self-governing freemen never ought to allow such things. This business belongs to the very intimate private affairs of mankind. If an organized church, as the Catholic or any other, interferes with the liberty of instruction, it is as bad as if done by the states themselves. It is also a mistake to think that liberty may be *taught in schools*. Liberty is freedom from subjection or oppression of all kinds, and can as little be imparted by instruction as nature herself. Men may be artificially trained for subjects of monarchs, but not for freemen. Organized churches will teach their creeds and formulas, but a very little of that religion which may be found outside of these churches. Why support them by laws? If governments have the care of instruction they always will make use of this power for their political interests, plans and fancy passions. Thus we may observe, that for state institutions, generally called military academies (West Point,) i. e., schools where young men are instructed in the art and science of killing men, cannonading houses and towns, destroying crops, erecting manslaughter houses called batteries or fortresses, &c., more state money is spent than is appropriated for any other kind of academical instruction, because such military institutes are better adapted than the latter to promote the ordinary designs of government as they usually are. And for the same reason we find, that an enormous amount of public money is annually laid out for making cannons, and other wholesale murder instruments, and much more than for instruments to save limbs and prolong life. We do not wish to be understood that we expect from any government, funds for the promotion of peace, health, or humanity; by no means, freemen will take care of that themselves; but we only wish to state, that governments, if not watched very closely, are all apt to apply state funds to purposes

which are diametrically opposed to the principle of self-government, which is, as we have seen, a product of reason and nature, and not of physical force and barbarism. Self-government leads to peace, and not to war. It opens indeed, a wide field of warfare, but only for that of industry, free competition, and self exertion. Therefore, we as self-governing freemen, ought not to allow such interference with the liberty of instruction to our governments.

7. By *Industry*, the third great source of self-government, we acquire the means of our existence and that of our families, as farmers, traders, merchants, bankers, brokers, printers, mechanics, writers, artists, scientific men, &c. It is honest, unremitting industry, (of which alone we speak here,) which warrants success, and makes an independent man in a pecuniary regard. For a full development of self-government, the greatest liberty of industry is indispensable. With this liberty our governments, in states and union, interfere more than with instruction and education. But we shall pursue this subject, together with the examination of the different branches of state and Congress business.

8. We have mentioned before (section 4,) that social life leads unavoidably to conflicts, which are easily set right among self-governing freemen. But we are not yet all such men. The corrupting influence of governments, as they commonly are, has among other more obvious causes, tended to render the number of those unable to govern themselves so large as to endanger that condition of society, at which self-government aims. Hence the origin and present necessity of laws, law-makers, judges, sheriffs, jails, prisons, and other expedients to check the ungovernable, or restrain the doings of bad men, who are unable to rule or govern themselves, and who therefore must be ruled or governed by others. Further, there are certain kinds of social business which cause and require co-operation. For the making of the laws concerning these bad men, and the business requiring co-operation, society has been divided into states, and these subdivided into counties and towns, and established representative bodies and officers who enact these laws, execute them, and act as agents of these districts. We commonly say the state, country, or land is divided into counties and towns, because society cannot be understood without the land over which it is spread ; but, properly speaking, these

divisions apply more to men than to land, because they are devised for the sake of business, which otherwise cannot be done. Therefore no business should be drawn into the spheres of towns, counties, or states, which self-governing men can or may do for themselves. We all know that this is the broad foundation upon which true individual independence rests, but, notwithstanding, our policy and daily practice differ widely from it. We have made many laws, created many offices, expended great sums of money in direct violation of this principle. If we make it our policy and practice not to allow any business to town, county, or state officers which we may do for ourselves, the social and personal freedom and the development of our race, will never be hindered by this organization, but rather greatly promoted by it. It is wrong to say that the establishment of states requires the giving up of individual rights and privileges. We rather gain by them, because states, when organized in accordance with the principles of self-government, secure us a larger and safer sphere of activity than we could have without them. It was self-government or reason, which established forms and rules for our conduct, before we thought of states; and such forms and rules are by no means restrictions, but only directions for our conduct. Self-government is older than states; states cannot produce self-government, but, if abused, they will destroy it. It is therefore highly important to define accurately the town, county, and state business, that nothing may be there done to impair self-government. For this purpose written instruments, called Constitutions, are drawn up, wherein is stated, what kind of business belongs to the officers (agents, representatives,) of these districts, and what not. To show our meaning better, we have, in the appendix, added the plans of two constitutions, one for a state, and the other for a confederation of states, in conformity to the principles of self-government. *If these constitutions are made in conformity with this principle, and do not contain prescriptions belonging to the sphere of (police, civil, and criminal) statute books, which, of course, will vary from time to time, they may be alike all over the civilized world, and seldom subject to alterations.* The principal difference between our Northern and Southern states, produces a *personal private business*, inserted into the Southern constitution,—we mean slavery. Slavery has nothing to do with constitutions, states,

counties and towns, or the administration of justice ; slaves are no public officers, governors, judges, or members of legislatures ; they are laborers or servants—nothing else. There is no more reason why the Southern constitutions should contain a word concerning slaves, than there would be for the Constitution of Massachusetts to speak about the factory operatives in Lowell, and for the Federal Constitution about the laborers in the arsenals.*

We will here remark, *that the existence of our Union depends chiefly upon the correct understanding of this subject.*

9. Since families form society, (section 4,) and the performance of social or public business belongs naturally, *exclusively* to the family fathers, it follows, that to them *exclusively* belongs the right to elect public agents in town, county, and state. *They exclusively have the right of suffrage.* This important business requires an age where reason is (by education and instruction,) matured enough, and where industry has laid the foundation of financial independence. The age of twenty-one years is generally believed to be sufficient for this purpose. Town, county, and state business cannot be done without the help of speaking, writing, and printing; therefore a voter must be acquainted with the language in public use. Men who prove to be *entirely* unable to govern themselves, as the insane; or *partially* unfit, as drunkards, criminals, duelists; further, those who make use of physical force against *unarmed* officers; further, men without independent existence (town paupers, &c.,) ought to be excluded from voting. Immigrants may, in a certain time, perhaps after one year's residence in the country, be able to fulfill these conditions.

* These examples show, why objects which belong to the sphere of private business ought to be absolutely excluded from the constitutions. The more the constitutions are thronged with private business, the stronger will be the desire, either of abusing or overthrowing them. The European constitutions are in this respect more faulty than the American, and therefore more in danger of being abused or overthrown. They are, for the most part, but papers containing provisions for the private interests of the rulers and their families, concerning their income, possessions, immunities, responsibilities, security by guards, armies, strong castles, fortresses, &c., which together they call rights of the crown. It is most remarkable that the illusion or humbug about the sacredness of these crown-rights has lasted until these days, when every man of a little common sense may easily comprehend, that they are only invented for the purpose of disguising the systematic extorting and amassing of money and riches.

10. From the principle of self-government, it follows, *that all public business which may be better done in towns must not be devolved upon counties, and what may be better done in towns and counties ought not to be done by states or Congress.*

11. The public business in towns is executed by the Selectmen, whose president is the Mayor, according to the resolves in town meetings, or laws enacted by the state. There is no need of making any difference between large towns, generally called cities, and less populous towns, in regard to the names and general organization of the offices. Selectmen are as well as aldermen; their business is the same, only more or less. Large towns may be divided, for the sake of business convenience, into smaller districts. The public business concerning a county, is performed by delegates, who may be called Commissioners, with a president, perhaps called Overseer.

12. It may be best to establish an American common law, concerning the number of voters necessary to constitute a town, and the number of towns necessary for a county, as well as the number of counties constituting a state. It is unnecessary to mention, that only business convenience is the cause, and gives the measure for these districts, and not the notions of the middle age, nor crown titles, nor grants, nor sovereign power, nor political balance schemes, &c.

If those districts are made in conformity with the principle of self-government, the business done within them will be alike all over the world, as far as civilization reaches. Thus a town should not contain over two thousand voters; a county not over ten towns, or twenty thousand voters; and a state not over ten counties, or two hundred thousand voters. Such a division will be about right for the dispatch of public business every where. To make such districts with regard to business convenience, is, fortunately for self-government, easy in North America, where self-government has been in practice for a while. But that it is very different in Europe, is shown, among other instances of daily occurrence, by the struggle in Ireland for self-government.

But this deplorable state of society in Europe and Asia will improve, the more the system of self-government is brought to perfection in America. We are indebted to the blessings of self-government, that the separation of the

town of Alexandria from the district of Columbia, and its annexation to Virginia, does not produce war, which undoubtedly would be the case in Europe if the people of a part of a state should separate from it and annex themselves to another—because *there*, *land* is the principal thing which comes into consideration,—afterwards, the *souls*. He who owns the land (as sovereign,) owns the souls of the people living upon it. With us, no land comes in question in such instances, but only the freemen living upon it, and the business which they have to perform. What these resolve to do, in conformity with the laws, is right. This should be the case all over the world.

In states which are too small, as Rhode Island, Delaware, and Maryland, the business expenses will run comparatively too high. In too large states and towns the business will be done badly and over expensively, the personal participation of the freemen will become too difficult, the general interest in public affairs will languish, agitation will be over violent, public opinion too vague, and deception by designing men too practicable. If we are not mistaken in this regard, a state like that of New York ought to be divided into two states, and the town of New York districted into two or three towns, to facilitate the management of public business. In regard to public business, we have chiefly to ascertain the number of voters. These being only heads of families, we may always learn the average number of the inhabitants, by multiplying the number of voters by five. Children, or others unqualified for public business, as slaves or bound servants, &c., must not be counted. It follows that towns, counties and states will be divided only according to general principles or laws. The boundary lines should be regulated respectively, by state, county or town officers.

13. Differences about boundary lines will be easily settled by states or Congress, or, if necessary, by a vote of the freemen. But if such a dispute originates between a state and a foreign government, and Congress should not succeed in its adjustment,—in such an instance, it should be the American common law, that the freemen living on the disputed district decide to which state they wish to belong, or if they wish to form a state of their own. In this true self-governing way disputes like that in Maine or Texas should be terminated. The justness of such an American common law consists in its harmony with the

right of self-government, according to which towns, counties and states are made by freemen, and not by governments. If nobody lives upon such a district in dispute, the dispute itself is gratuitous and absurd, because where there are no people, there no government is needed. Thus much is certain, that this manner of treating such disputes will, among tolerably reasonable people, never lead to war.

If a foreign government should refuse to adjust such disputes in America, according to American public law, it may try to adjust them otherwise, perhaps by animal or physical force, guns and cannons. The freemen in danger of subjection may resolutely face the danger; they may, if they think proper, call for assistance; but, if from our side every thing is conducted in accordance with the true principle of self-government, reason and peace will prevail, and violence not be resorted to. We think that this way of settling such differences deserves the preference to arbitration.

14. It follows further from this principle, that we never must acknowledge a territorial right or domain of any government,—our own, or foreign—*because state-territorial rights involve society invariably in state-property conflicts and war.* We again and again say, that states are made only for business sake, not for the purpose of giving up or acquiring landed property. This belongs exclusively to the owners. We have allowed Congress a kind of territorial right over the wild land in the West, and our states assume such rights over unoccupied land within their limits. These are against the well understood principles of self-government, and the whole system is a mere imitation of the pretensions of Asiatic-European governments. This deviation from our original system has involved our society in the greatest difficulties, among which the following are the principal:—

1. This territorial system has caused repeatedly serious boundary disputes, of which that with Mexico has resulted in war.
2. It has caused an immense amount of public expense, for which, unfortunately, the most useful freemen, the primitive settlers or pioneers, have been taxed.
3. It has checked immigration and deprived many of the means of cultivating wild land and establishing a home; or, when they had the money to pay for the wild or Congress-land, has retarded their success and prosperity.

4. It has, in this way, obstructed the cultivation of the wild land and violated the liberty of industry.
5. It has produced useless Indian wars, and similar Indian treaties, which, as is publicly acknowledged, are, for the most part, only agreements by which speculators or some adventurers, of either party, profit, and by which the Indians in general gain a very little or nothing at all.

For all these great evils and sacrifices we have hardly any recompense. We are satisfied, that without any Congressional interference the wild lands in our states, and beyond them, would have been sooner, more easily and cheaply settled, measured and divided into towns, counties and states, than under the present system. If the Americans would have treated the Indians according to the principle of self-government, they would have had no business with them about unoccupied land. Hunting and fishing are free, and give no property rights to land, rivers or lakes. It is now, and has been at all times, the business of the pioneers or first settlers, to make arrangements with Indians, to pay them if they get any thing from them.

These pioneers are our state-makers; they are the Warwicks of the present age. Singular, that their providential vocation has been so often mistaken, and they sneeringly called "robbers of our legitimate domain," in the very halls of Congress. Still these pioneers are much better than the Warwicks of old; they are the heralds of civilization, the very foundation of our States and Union; they make no libertine kings, but brave freemen and states, which are the best the world has seen! The surveyors of the whole world cannot take the lead of these pioneers. Would that we had never interfered with their industry, never taxed them for having cultivated *first* the American wilderness! Our Union, as such, has as little right of property to the western wilderness as the roving Indians, (we, of course, except the settled Indians,) or the Englishmen or Russians,—all their and our maps to the contrary notwithstanding. Such maps prove nothing; they are as visionary as the pretensions themselves. *Wild lands belong to those who first occupy them permanently.* These occupants, having subdued the wild lands, finally resolve themselves into states. In this way the whole earth, North America included, has been cultivated; in this way pioneers have taken ground in Texas, and are spreading civilization beyond the Rocky Mountains. Congress has nothing to

do with this business. *Its activity is first required, when the question of annexation is brought under its cognizance.*

15. The natural progression in which towns, counties, states, and finally, a state confederation are made, may be termed *a constant process of annexation*. Thus this business appears as a highly important one. In regard to this business, American common law should have long since furnished a leading rule, perhaps of this kind,—that a pioneer has a guaranteed right to two or three hundred acres, of which he is bound to give gratuitously so much land as is required for certain public purposes. (See the annexed plan of a Federal Constitution, section 46, *a*.) If he is able to acquire and fence in more, he may do so; but when this is not the case, a general rule of this kind should decide the question. Such a single constitutional *proviso* would answer for the present complicated system of surveying and trading in land. When the original settlers establish a town, their titles will be ascertained and recorded. In this way all North America, the Canadas included, will be soon settled, and, *if our Union is what she ought to be*, readily annexed. *The present Congressional land-trade and charges for land are indeed a kind of prohibitive system, which injures the general interests of our society more than all the much talked of tariffs.*

Suppose a new state or state association is in this way formed, a constitution set up and laid before Congress with the request for annexation; this association, and *no property*, is in question, and if its constitution is in harmony with the principle of self-government, it may be annexed. There cannot originate the least dispute about it, if the business is conducted in conformity with the rules of self-government. If we had acted in this way with Texas, we should have saved the blame and perils of a war. We complain, foolishly enough, against Mexico, that she obstinately refuses to acknowledge the Rio del Norte as the Texan boundary line, and to recognize Texas as an independent commonwealth, and to treat with us in regard to it after we have annexed the same. The question is here, first, how far does the organized state district called Texas extend? It is admitted that this district is now not organized beyond the river Nueces, perhaps not so far; therefore the land between that river and the Rio del Norte can neither be included in this state district nor annexed. But we say, that Santa Anna, when a prisoner of war in Texas,

promised to Texas this land. We, as Americans, should not use such pretexts. According to the principle of self-government, neither Santa Anna nor the Mexican Congress, nor Spain, nor France, nor any other state, can validly give such a promise. It is gratuitous, and can only become any thing, if the freemen settled on the land in question give their consent to it. Otherwise Congress, or a President, or perhaps General Taylor, might as well give away Maine for California, or Kentucky for nothing. If, as we assert, neither states nor governments have territorial rights, Mexico *has no right* to interfere with Texas, so far as she is an independent, self-governing commonwealth, and, of course, would be wrong in opposing and quarreling about her annexation to our Union. But as soon as we admit and assume ourselves state territorial rights, we cannot, without palpable inconsistency, deny the same right to Mexico. And from this standing point Mexico appears to be right in her opposition to the annexation of Texas and the claim of a large country besides, which, until now, has been in quiet possession of Mexicans, who never asked for annexation to Texas or our Union. Neither the Texan settlement, nor the war about it, nor annexation, can annul this Mexican territorial right. This case shows that we have allowed Congress, first to act by annexing Texas, (of Texan slavery we shall speak hereafter,) in conformity with the principle of American self-government; and secondly, by asking more than is and could be annexed, and beginning a bloody war therefor, to act according to the Asiatic-European animal or physical force system of government, which is equivalent to robbery. Self-governing men will never rob or steal; not because these crimes are forbidden by state laws, but because they are against the principle of self-government. No self-governing man ever will go out to conquer land with fire and sword, because this is the worst kind of robbery, whether it be sanctioned by the laws of Asiatic-European sovereigns or not. These laws, (wrongly called laws of nations) originated in barbarous times. Self-governing men cannot suffer such laws, because they are against reason, Christianity, humanity, and every thing dear to a civilized man. Although it is common sense, and in harmony with the principles of self-government as we daily practise them, that states, as such, have nothing to do with territorial property, we still consider the people

in Texas as something attached to the land bordering the river Rio del Norte. Our government follows thus the policy of Russia and similar governments, who claim men as their *own*, although they have years since resided in the United States. A bloody war is the consequence of this fatal policy. If we had acted according to the policy of self-governing freemen, we should have annexed this year Texas, perhaps in ten years Nueces; and again, in ten years, Santa Fe, and so on, without a cent's public expense, because the whole business would have been done by our statemakers. By using brute animal force we kill the freemen on the spot and our friends and sons who could be useful pioneers; waste, besides, the earnings of our industry in useless business; dishonor our system of government; and lose the esteem of civilized men. Each square foot of conquered land is a stain on our character as self-governing freemen.

It is, we presume, superfluous to say a word about "national honor, glory, or wrong," and such shallow phrases. We can leave such rhetorics to Indian chiefs and their colleagues in Asia and Europe. Self-governing men establish no nations in the style of the Eastern continent. Our states are not made to split society into hostile, discordant divisions, all the time at war with each other, like Poles and Russians, French and Englishmen, &c. By no means; our states are mere business districts, affording facilities in our social intercourse and industrious enterprise, and, of course, producing safety and happiness to existence; therefore, they must unite, strengthen and consolidate society, and never separate it.

The peaceable annexation of new states to our Union has been till now, with the exception of the ill managed annexation of Texas, one of the most remarkable features in modern history. There has never happened any thing of this kind before. But it will only be a blessing for us and mankind, if this business is conducted in strictest conformity with the principle of self-government. Because it is only this principle—and not the representative form,—which guides us safe, as we have seen. European powers have admitted more or less of the representative forms, and are nevertheless despotic governments. Our constitutions must be more distinct in this regard. There ought not to be a state annexed, unless she has adopted a constitution in conformity with the principle of self-government, nor

without the consent of the majority of the voters. (See the plans of the Constitutions.)

There may be some who will ask, who shall give us the guarantee, that people in such new states will call for admission into the Union? We answer, that such a guarantee is as unnecessary as the fear of losing these people is unfounded, and we repeat, that if our Union is really what she ought to be, we will have plenty of annexation business. People in the Canadas and Mexico, and West Indies, will soon discover, that there cannot be any government better and cheaper than a confederation of states founded upon the principle of self-government.

But, as matters are now with us, the chance is different. It is, no doubt, a grave, portentous case to be annexed to a state confederacy, where so much incongruous, expensive and useless government business is done; where slaves are allowed to count at the polls with freemen; where the highest magistrate is so little guided by prudence, justice, and humanity, as to admit new states with "constitutional" slavery; where war is waged for hardly any reason; where so much physical animal force government exists, &c., that we all feel state-ridden; in consequence of which we may witness the spectacle, that new states, although started under Congressional patronage, may decline the honor of being annexed, of helping to pay unjust war debts and being involved in slavery difficulties, general state bankruptcies, high and low tariff difficulties, commercial crises, &c. Then a new question will arise, viz., shall such a "repudiating" state be forced into the Union, as the Poles are forced into the cold embrace of Russia, or not?

16. We add a few words on War in this connexion. According to the prevailing opinion, no state, not even our Union, can exist, without being prepared, in the common way, for war, i. e., ready to kill, destroy and conquer. Nothing is more false. Unless we are entirely mistaken, we have satisfactorily proved, that our states are expressly established to check warlike tendencies and unreasonable and animal propensities, that liberty, and self-government, and the fruits of education, instruction, and industry, may not be endangered by them. We should never kill even the criminal, because the destruction of life is entirely at war with reason and self-government. To conquer men is to subjugate them. A subjected man cannot be, at the same time, a freeman. The permission given to Congress

to prepare for war, opens the door to a kind of industry, we speak of that of a soldier, which is criminal, because its purpose is homicide. The permission given to Congress to declare war, is the cause why public officers do not make proper use of prudence to prevent disturbing conflicts. The horrible effects and consequences of war are well known. Therefore, we should either take back these permissions given to Congress, which would be the simplest method, or so far alter the constitution, that war can only be declared in accordance with a general vote of the freemen, which would virtually amount to the same thing, because, as society is now constituted, people in general cannot but give a verdict against war. It is sheer nonsense, to prepare in peace for war, to expend a cent from any public treasury for military academies, stores and instruments. We will not raise and pay men to destroy self-government. Where the reign of war commences, that of self-government stands still and ends. If we act as self-governing freemen, we never shall have war, and therefore never shall have an occasion to fight for a treaty of peace, as we do now in Mexico. Only savages can incur the necessity of war. We can safely dispense with all fortifications, and armies, and navies, and thus prevent a great waste of the public money. It may be easily calculated, that the annual Congressional expenditures will amount to about one million of dollars, provided the business there is limited to the wants of self-government.

17. Next to war, nothing interferes so much with the best rights and interests of self-governing freemen, as the governmental meddling and bungling with *industry*. We mention here,—

1. *Licenses*. These inventions of European financiers, to make money for their luxurious lords, are against the liberty of industry. If a trader, who is too poor to establish an expensive store, prefers to travel with his goods, let him do so. He will take a comfortable locality for his trade as soon as he can afford it. Let those who like to deal in alcohol, gunpowder, medicines, poisons, knives, forks and guns, do so. Town people and the grand jury will look out for safety; states have nothing to do with the matter.

2. *Charters for Industrious Associations*. They are chiefly desired, to endow private business with politic rights and public credit, which in itself must be disadvan-

tageous to unchartered business of the same kind. If charters are taken by stock companies for the purpose of making the stockholders *not* liable beyond their shares, they are superfluous, because this ought to be settled by general laws. Bankers and bank-stock associations may pay people with cash or promissory notes, (bank bills;) this is a mere private transaction, requiring no charter. If the charters are taken to support the circulation of paper money, (promissory notes, payable to the *bearer*, are paper money,) state interference is used as a means of creating fictitious capital, and thus, in proportion to the amount of this fictitious currency, causing overtrading and those revolutions in commerce which we unfortunately witness so often in our Union. If this business is left alone; if governments will cease to trouble themselves how the bankers make money and pay their debts, or lend money to the people, banking will be conducted according to the laws of commerce, and never produce general calamities. It is the height of folly to authorize the promissory notes or bank-bills by contra-signatures of state officers. In this way a real state paper currency is made, which is against the tenor of the Federal Constitution, if we are not mistaken. Thus much is certain, that if banking is left alone, it never will have the tendency to raise artificially the value of things, as is at present the case, which is the greatest lever of the foreign importing business, to the disadvantage of our home industry.

3. *Tariff, Customs, Indirect Taxes.* They are open violations of the liberty of industry. They are the invention of despotic governments, and fraught with injustice, because they affect the poor more than the rich, producing therefore poverty of the masses; they are immoral, because they are interwoven with smuggling, fraud, perjury, and other crimes; they create extravagant expenses, political patronage, international discord, and furnish the ready means for war, and other follies and absurdities of designing and despotic men. We see that industry produces a constant emulation among industrious men. If governments establish what is termed protective tariffs, they must necessarily patronise one class of business men at the expense of the rest, and, of course, disturb the natural state of trade, and interfere with the liberty of industry. Protective tariffs establish a kind of monopoly in some way or other. It is sufficiently proved, that protective tariffs cause *poverty* in

the large masses, as we see in England, France, and other countries, and especially in Spain, the country which has been longest subjected to the so called protective policy. Nothing can be more against the principle of self-government. Each man ought to protect himself and his business as well as he can. Indirect taxes frequently lead to commercial treaties, which are always *limitations of the liberty of commerce*, advantageous only to financiers, political money makers and their governments, and always injurious to the commercial public and people in general. These treaties never ought to have been allowed, and they should be discontinued as soon as possible. We cannot expect that public officers, who are not merchants, should know much about the interests of merchants. That this is the case is proved, first, by these customs and treaties, and secondly, by the confessions of the shrewdest class of men of this kind—we mean the British ministers, who, in the late corn law debates, admitted that they knew not how to assist and protect the interests of traders. Certain state philosophers or statesmen have tried to systematize commerce, not aware that this is as impossible as it would be for them to regulate air and water, rain and sunshine. Each merchant has and must have a system of his own. He must try his own skill on the field of industrious warfare; and he will succeed, according as he understands mercantile tactics, among which the first is, secrecy of his plans of action. Hence the obvious impossibility of a governmental systematizing and directing of commerce; hence the superfluousness of commercial treaties and ambassades, as that to China, &c. Forcing factories by prohibitive tariffs, is yet more ruinous than stimulating commerce by protection, because people have to pay all that the factories gain, without getting any recompense. We therefore should labor to bring about a speedy change in our policy in this regard. Direct taxes are the only means of raising a revenue that freemen can admit. Political partizans or demagogues do not like them, because a great host of offices will be abolished by adopting a general system of direct taxation. In our plan of a federal constitution we propose, that the money required by Congress shall be drawn from the state treasuries, because these should serve as a sort of sub-treasuries. This, so far as we can judge, is the only fair, simple and safe way to fill the congressional treasury.

4. *Patent Rights.* They belong to the class of monopolies, and are therefore opposed to the liberty of industry. As stimulants to industry they are of less value than many think, because only a very few of the patented rights are worth more than the high expense bestowed upon them. This institution and its kin, the system of protective duties, were originally calculated to create a kind of industrial aristocracy, to serve as a support to the tottering rule of the landed aristocracy and their sovereigns in Asiatic-European empires. There the governments have, under different pretexts, as that of crown rights, domains, sovereignty, &c. great revenues. The nobility are similarly situated. The industrious men of influence have, in their turn, in the course of time, succeeded in extorting from them certain monopolies, protective duties, patent rights, &c., to get rich also. Hence we meet in such countries some very rich men and an immense mass of poor people, who are now so much degraded or degenerated, that they prefer, when in distress, humbly to beg their governments, who deprived them first of the means of subsistence, for support and bread, instead of trying self-government, and reclaiming their primitive rights, first among which is liberty of industry. Shall we have such a state of things in America? With us, it should be left to the people to reward meritorious discoveries and public benefactors. Neither states nor Congress can do it better, nor will they have the means of doing it, if we take proper care of ourselves. States are not established to make people rich. This should be borne in mind by those who clamor for high tariffs, charters, incorporation acts, bank privileges, harbor, road, bridge, and other repairs, at the public expense.

5. *Post.* This *forwarding business* is, as a public one, also of well known European financial origin, where, at the same time, it is used by government officers to discover the contents of letters trusted to their care. That governments, generally, do not understand how to manage this forwarding business well, has been proved of late by the post office reforms in England and America, planned and forced through by private citizens, almost in spite of the officers of government. It is obviously against liberty of industry to place this forwarding business in the hands of governments. If left free, it will be done better, more cheaply and safely, by enterprising men, than it ever will

be by officers, who are appointed according to the dictates of the policy of the ruling party, with little or no regard to their qualifications. The late Congressional law, which prohibits private competition, deserves the name of a legislative outrage. It is a rude aggression and infringement of the liberty of industry. This prohibitive clause should have been discarded by a uniform movement of all the courts, as unconstitutional. Congress ought to suspend or give up (as advised by Mr. Amos Kendall when in office as Postmaster General) this business. This, alas, obviously will not be done by the political parties of to-day.*

* The reader may find proof of what we have stated here in Mr. C. Johnson's Post Office Department Report to the Congress, in December, 1846. Among other equally significant things, he says,—

1. That the Post Office Department should have the exclusive control of the Magnetic Telegraph.

2. Because this Telegraph is so powerful for good or for evil to the citizen, that it cannot be permitted to remain in the hands of individuals uncontrolled by law.

3. That the evils or benefits of this Telegraph cannot be over estimated.

4. That the government should get the exclusive control of it by purchase.

We ask, what this Telegraph has to do with the letter-forwarding business? If the Telegraph supercedes letter-writing and transportation, why, we ask, should Mr. Johnson and Congress trouble themselves about it? Is a letter a part of the Union? Must we write letters for Congress' sake? That is the very language of despotic governments, who frequently make use of similar phrases about the *press, liberty of speech and conscience*, and who have controlled all these bulwarks of humanity, by laws, licenses, and prohibitions, in such a manner, that their humble subjects cannot utter or write a word to the public without the most gracious permission of their lords, because, forsooth, "the evils or benefits of the press, speech, pulpit, magnetic telegraph, &c., cannot be over estimated!" Before long, our terrible Secretary of War will raise the same cry concerning the evils and benefits which may be or may not be produced by the vegetable gunpowder, and will insist upon controlling it by very sharp laws, exactly as the petty princes in Europe have done already. Very gratifying to the European statesmen will be such a document, addressed to the North American Congress in the year of our Lord 1846, and it cannot fail, that its despotic author will acquire quite an "European reputation," which seems to be at present the highest aim of our statesmen and soldiers!

The only evil which we are able to discover about that telegraph is, that it is not so universally practicable as to crush at once by competition this public nuisance called the Post Office Department. This purchasing and money wasting, and interfering with private industry, is the curse of such impertinent business. Is a Mr. Johnson a better letter-forwarder than a Mr. Harnden, or a Mr. Adams, because he

18. We proceed to examine what is right in regard to the so called *Internal improvements*, and will speak first of,—

1. *Roads.* Roads of all kinds should be built by those who are most in want of them. We do not comprehend how Congress ever can be in want of a road, or obliged to build one, so long as we have towns or counties to take care of this business. To build what is termed a national road, is no more the business of Congress, than it would be to establish a national shoe factory, or to erect our town halls or county court houses. Such national chimeras and playthings of politicians remind us of the pyramids in Africa, and similar useless governmental works in Asia and Europe. What is generally the end of such works, we have seen, of late, in several of our sister states, viz., state bankruptcy.

2. *Canals.* If canals are needed, and the subject is well brought before the people, they will be executed without state interference. Governments generally build either badly or expensively, and more for political interests than for those of the people, so that it is more important to have *whig, democratic, native or liberty party* canal commissioners elected, than men who understand the business. If state works of this kind come into competition with private enterprise, as is the case in New York with the state canals and private rail-roads, the same outrageous policy is followed as we noticed under the caption of "Post." All these works should be sold as soon as possible. They are a disgrace to self-governing freemen, because they apparently imply a reproach, as if the people were not capable of doing this business for themselves.

3. *Improvements in Rivers.* If rivers are navigable, they are *water-roads*. Therefore, the same is right here, which is right about land-roads. People who live in the river towns and counties, who get wealthy by making use of these water-roads, fisheries, sand and other products of rivers, are the ones who ought to keep the navigation in

styles himself Postmaster General? How will a government purchase of this telegraph alter the case? Will the telegraph in the hands of the government not do the same business that it now performs? or will Mr. Johnson only allow one kind of correspondence, and intercept, according to his sovereign pleasure, all other kinds?

The arrogance which pervades this document, when touching private competition, is contemptible. But the reader may judge for himself, and if he does not feel it, we cannot help him.

order. It is their business, not that of States or Congress. If Congress takes care of it, revenues will be applied to it, to which all, rich and poor, contribute equally. The injustice of taxing in this way, the poor inhabitants of the prairies of the West equally with the rich inhabitants of the shores of navigable rivers in the East, needs only to be mentioned, to be at once fully appreciated.

4. *Harbors.* Some Presidents have approved harbor appropriation bills, others not. This uncertainty of the question is caused by locating the business where it does not belong. According to the principle of self-government, the inhabitants of the harbor towns, and not Congress, should take care for the harbors, because they are the source of their wealth, and benefit them in many regards, so that they ought to bear the expenses of improving and keeping them in order. They are, for ships, what stables and sheds, &c. are for teams. With as good reason might we ask Congress to build these.

The jurisdiction over harbors and all kinds of ships coming in and going out, belongs also more properly to the County courts, (or respective justices of the peace,) than to Congress. Crimes are crimes, whether committed on board ship, in harbor, or on the high sea, and in neither case do they differ from those committed on land. We see not, that water can have any influence upon the trial and judgement; and why may not a County court, organized according to our plan of a State Constitution, try a case of mutiny, as well as that of a homicide or riot? If Congress or States undertake to build new harbors, they will, more or less, affect the business of the neighboring harbors. This may be justly done with private means, but not with public funds.

5. *Light-houses.* These are large lanterns on water-roads, for which harbor, river, and sea towns should provide, because they are most directly for their benefit. There is no good reason for committing such Town or County business to States or Congress. As well might inland town people ask Congress to take care of their lanterns on streets and in squares. In consequence of the daily increasing extension of our Union, a speedy change in these things, for the better, is imperatively necessary. The centralization of such business in Congress leads to serious consequences. It swells the public expenses beyond need, produces patronage which creates corrupting

power, and is so much against the plain principle of self-government, that we need only to add, that merely by such business, and the influence, patronage, and corrupting power which it produces, the European governments are prolonging their baneful existence more than by their theories that they have, by the grace of God, a right to do such things. It is such improperly located business, which produces constant embarrassments in our Union. Congress has nobler business to perform than the building of roads or the putting up of lanterns. On this point we refer to the plan of a Federal Constitution, in the Appendix, which differs only in this respect from the present Constitution, that it gives to Congress only such business as rightfully belongs to it, and no more.*

19. We proceed now, in our examination of the public business, to slavery.

Slavery exists among us as something like a public business, in consequence of the interference of states, and, to a certain extent, of Congress, in behalf of it. As we have noticed at another place, it is but a private business, like that of keeping horses and sheep; contrary to that, the slaveholders have placed it among the public business and mentioned it in their constitutions. This, as well as § 3, section 2, article 1, of the Federal Constitution, is improper, and against the rules which are to be followed in making constitutions. We add, in the Appendix, under Note c, this section, and that part of the constitution of the state of Kentucky which applies to slavery, for the informa-

* The intentions of the late Chicago Convention are against the principle of self-government, and not supported by the Federal Constitution of the United States. If Congress would be constitutionally bound to carry on banking, build roads, canals, shore lanterns, and improve rivers, &c., there would not be among us any need of much talking or convening about these subjects. Besides, governments are generally too prone to embark in business. The passage of the Federal Constitution which shall authorize Congress to do such business, reads thus:—"Congress shall have power to regulate commerce with foreign nations, and among the several states, and with the Indians." This is diplomatic business, in consequence of which Congress has the right to make treaties with foreign governments, to protect the liberty of commerce at home, and between states and Indians, which are a kind of foreign nations. It is obvious, that this passage cannot be understood by self-governing freemen that it authorizes Congress to carry on banking, build bridges and roads, and improve harbors or establish shore lanterns, and more of such business, which belongs to individuals or towns, and not to states or Congress.

tion of the reader. By means of these constitutional, or rather unconstitutional, enactments, slavery is elevated to what is called a domestic institution. In the Federal Constitution slaves are politely termed bound servants. They figure there together with presidents, senators, ambassadors, representatives, generals, &c., on the same political platform. This ought to be altered. Slaves may be considered as members of the families of slaveholders; but millions of them cannot, as such, represent a fraction of a self-governing freeman. To count them in voting, and thus give them the weight of freemen, is more than unreasonable. Instructions how to treat laborers and servants, bound, or born, or hired, do not belong to constitutions. We may as well insert rules there for the treatment of apprentices, students, ladies and gentlemen. These passages in the Southern constitutions ought to be obliterated. We may dispense with them easily by adopting uniformly, all over the Union, the mode of voting proposed in section 2, of our projected State Constitution.

In regard to the chattel principle of American slavery, we appeal to the courts, chiefly to the Supreme Court of the United States, to decide, that it is against reason that a slave can be born in America. Otherwise, we may as well have born shoemakers, lawyers, merchants, and presidents, and why not knights, barons, and kings too! *No man can be born a slave, or to a station, where liberty of education, instruction and industry reigns*, by means of which alone a man becomes what he is. The courts have the power to annihilate this fatal, shameless factory system of making slaves, which exists no where but in America. And if the courts are asked for positive legal reasons, they may bring forth the Declaration of Independence, signed by Delaware, Maryland, Virginia, (District of Columbia,) North and South Carolina, and Georgia, wherein it is said, "that all men are created equal," which simply means, that men are not born to stations.

After the constitutions are purified, and the courts have annulled the monstrous slave birth-right, the necessary steps are taken, which lead gradually but effectually, to the termination of slavery. It first must be made what it really is, a mere private affair. If a man grown up as a slave, prefers to be one, let him do so; but his offspring ought not therefore to be doomed to the same station. It is an unpardonable sin of the North American Congress,

that it has not, in this way, laid hands a long time since to the work in the District of Columbia. But we are aware that little will be done in this grave matter, by this body, until the Federal Constitution is altered.

20. There is another business left which is opposed to self-government; we mean the process of *Naturalization*. We shall find that all laws referring to it become superfluous by adopting the natural suffrage principle laid down by us. The present naturalization laws are imitations of European laws, which regard birth and landed property as necessary qualifications for a citizen. But, according to the principle of self-government, *personal qualifications*, and neither birth nor earthly possessions, make a freeman. If that is true, and who will deny it, there cannot be a difference between a freeman born south of the St. Lawrence, and one born north of that river. These qualifications must be the same in all civilized countries, i. e., where there are freemen. We consider our requisites of voting capable of superseding the oaths of allegiance. This procedure, together with this oath, are inventions of Eastern politicians for purposes which are strangers to us. After having adopted the idea, that only a born American is a citizen, we were under the necessity of ordaining, that a man, who happens to be born on the other side of the St. Lawrence river, and immigrates into our Union, must be born over again, and swear to become a citizen, &c. All this is superfluous, and indeed, trash. No man can be born a citizen, or slave, or freeman. We are, indeed, born equal, but God alone knows for what station. A man may be free, but he is not therefore what we call a self-governing freeman. A man who steals, kills, and cheats, is, although born in America, a criminal—nothing else. A man who comes from abroad with a family, or settles a family here, and resides for a certain time in a town, and complies with the often mentioned natural conditions of voting, exhibits himself as a self-governing, free, and useful member of society. From these self-evident facts it follows, that he can be no longer a *subject* of other governments, otherwise he would not be here. That he must obey our laws from the moment he enters our states, is matter of course, with or without the formality of naturalization. Or will naturalization alter the case, if he is acting wrong? Will not naturalized rogues meet the same punishment as unnaturalized ones? An American in foreign countries is in the

same situation. If he will not obey the foreign laws, he will soon feel the consequences, whether he has become a citizen there or not. *Nearly all that refers to social and public business is mutual.* We in America should forget narrow national differences, established and fostered by despotic governments for their selfish purposes, and dispense with laws and business which tend to disunite society.

21. After Congress and States have been relieved of all business not belonging to their spheres, and the State and Federal constitutions better adapted to the principle of self-government, the question will arise, what business remains for Congress and States?

Let us consider, first, the business of State Governments.

According to the annexed plan of a State Constitution, the *administration of justice* will and ought to be the chief business of states. To administer justice in conformity with the principle of self-government, we require laws and arrangements which lead to self-government. The less the inhabitants of a town are able to govern themselves, the more constables, jailors, sheriffs, policemen, night-watches, prisons, lawyers, judges, courts, law-makers, governors, and finally, soldiers, and guns, and cannons, will be wanting to govern and rule them. A man can or should only be liable to come within the reach of the law, in consequence of a want of education, incomplete instruction, and lack of industry, leading to bad actions. Both civil and criminal laws ought to supply these wants, and to aim to promote self-government. How little, indeed, our present laws do answer this purpose, we may infer from the generally prevalent opinion, that a person, who once has the misfortune to fall into the hands of the law, is lost for ever. It seems not so much the crime which dishonors a man, as the punishment inflicted upon him. This would be otherwise if mankind could be made to feel that the administration of justice is only intended to restore to the fallen man the power of self-government. An entire change in our laws will be required to accomplish this end. This is no easy task. We add a few suggestions in this regard.

1. Make and alter the laws with great deliberation. Make only a very few and very simple laws, and free them from all Gothic, Latin, French and other obsolete phrases, futile formalities and subtilities, which common sense peo-

ple do not comprehend. Merge common law, chancery, equity, admiralty or marine and probate courts in one civil court, so that we may have police, civil and criminal courts, and a single Supreme Court only for all kind of appeals.

2. Banish from our statute books all that belongs to barbarous times, such as the idea of revenging crimes by a certain amount of punishment, the penalty of death, &c. Courts should not revenge and kill like savages. The laws and sentences must be humane, and neither cruel nor unreasonable. Justice—not barbarous physical force—must step in, to accomplish what education, instruction, and industry have left undone in single instances. To answer those ends of justice we ought, therefore, to avoid the crowding together of offenders in huge prisons, so that the labors of education and instruction may the more surely reach them, and they be the more successfully trained by them to useful industry. Small farm-like prison establishments (perhaps one for two counties,) should take the place of our prisons with factory labor. Factory labor is not calculated to promote independence so certainly as agriculture. Let us not forget the families of prisoners, if the head of one should happen to be a convict. They are at present often more severely punished than the malefactors themselves. Place these establishments under the care of the best officers and county committees, composed of members of both sexes, and do not insert into the sentences of criminals a certain amount of punishment, because this is revenge. The convict must remain under strict charge, until he gives satisfactory proofs of being able to guide himself right in the future, when provision may be made for his discharge. Should this proposed reform be adopted, the pardoning power will be found useless, therefore we have omitted it in our plans of constitutions.

3. Forbid reference to European laws in general, and those of Great Britain in particular. These are written in blood, and filled with provisions not in harmony with self-government. The English criminal laws seem to have been made by rogues for the benefit of scoundrels, and the civil laws more for the convenience of lawyers than for the comfort of men in search of justice.

4. Abolish flour, tobacco and other ware inspector offices. An honest dealer must feel offended by seeing his goods inspected, because he must be always ready to stand for his name. The fraudulent dealer knows how to cheat the

inspector, as we daily witness. (We see that the new Constitution of the state of New York has abolished these offices.)

5. Do not lay duties or taxes upon private business, as banking, auctions, &c. Regulations about auctions are best left to the town officers. Duties on auctions are often a tax on the unfortunate and poor. Let towns and courts take care of all such business as changing names, planting oysters, building wharves, dissolving matrimonial contracts, &c.

6. In section 29 of our plan of a State Constitution, we have suggested that the courts may, from time to time, inform the public and the legislatures what judicial reform may be necessary. Some such practice would lead to much good.

7. Let legislatures convene only every second year, to avoid too much law making.

8. Let the justices of the peace be truly peace makers, as we have proposed in sections 37 and 38 of the said plan. What business may and can be done by lower instances or magistrates (justices of the peace,) ought not to belong to higher instances or magistrates, (county or supreme courts.)

9. Abolish the practice of requiring a *majority* to elect a candidate. Such a requirement produces party combination, superfluous business and expense, and is more aristocratically capricious than just.

10. Let all statistical, geological, geographical and similar researches and investigations be made by private enterprise, or towns, or free associations, and not by states. It will be better and cheaper done than at the state expense.

22. To Congress should chiefly belong,—

1. The care of preserving and extending our Federal Union. (See the plan of a Federal Constitution, Appendix, note *b.*, section 3.)

Ours being the only government which is founded upon the true principle of self-government, our Congress may be considered as the most important magistrate on earth. It is endowed with a kind of providential influence on the progress of civilization. Therefore we should remove every thing from the sphere of its business activity which is not in strict harmony with its high destination. Both the greatness and goodness of our Union are owing to self-govern-

ment. The magic power of her moral influence and of the moral force of this principle, is felt all over the civilized world. This, and the virgin fertility of our country daily attract large numbers of men; therefore the extension of our Union must be perpetual. Hence the importance and necessity of the annexation of new states.

On this occasion Congress will develop its greatest usefulness. Being elevated above the selfish interests of governments based upon animal physical force, its debates will never be inspired by avarice, by a craving for territorial grandeur, or by a desire to make money by fighting, killing, subjecting men and creating slavery. No, they will be only guided by an earnest wish to promote and extend the empire of humanity, peace, order, and justice, or, in other words, of self-government. If a sufficient number of freemen have established a state, and present their constitution with a request for annexation, Congress will examine the instrument carefully, to ascertain that it strictly harmonizes with the principle of self-government; that liberty of education, instruction, and industry are secured by it to all, and that nothing is admitted, like slavery, for example, which is opposed to self-government. After Congress has approved the Constitution, the right to decide *on the fact* of admission belongs to the qualified voters. The importance of the question requires such a verdict.

On such occasions Congress will be the defender and advocate of self-government, which will be a delicate task in conflicts with physical force governments. Congress will not acknowledge any rights of ownership to be derived merely from discovery without actual settlement and occupation. The difference between our government and those based on the physical force principle, is as great and wide as that between moral power and physical violence. Brutal violence hates and assails moral power, until subdued by its charm. The physical force governments are well aware that the principle of self-government, with its moral power, will finally terminate their existence. Let us therefore act with firmness and prudence in all conflicts with them.

2. Congress has the care of diplomatic business. We have, as a matter of course, to make use of diplomatic agents only so far as they are needed for business. We think that court ambassadors are superfluous, because we have no courts ourselves, and we have tried in vain to discover a single business object for an American ambassa-

dor or minister near the persons of the Turkish, Russian, Prussian or Austrian autocrats, &c., which would not be as well answered by a consul, who, we are aware, is needed. American travellers will protect themselves by prudence, and with the help of consuls. This, we understand to be the meaning of George Washington's advice in his beautiful farewell address, viz., "*to have as little connexion as possible with foreign powers.*" Besides it must be a settled principle of American policy never to treat on domestic affairs abroad.

3. *National Defence.* Let us never prepare in peace for war, if we will preserve peace. We are satisfied that a strict adherence to the principle of self-government is the surest preserver of eternal peace. Remember that only savages can incur the necessity of fighting and killing. We have, therefore, in our plans of Constitutions committed the care of the general defence only to Congress, and not to state governments.

In regard to other congressional business, we refer to the annexed plan of a Federal Constitution, which is plain enough to be thoroughly understood by every common-sense reader.

23. We have often laid great stress upon the saving of public expenses. Our reason for it is not false economy; no ! we say, pay all officers you are really in need of, well. Our reason for recommending the strictest economy is chiefly, *because self-governing freemen require much more for education, instruction, industrial pursuits, and the comforts of life*, than mere subjects. They wish to maintain equality in civilized society; they apply great sums for useful information; their enterprise is only bounded by the limits of nature; their commerce embraces the whole world. This is otherwise in Asia and Europe, where the great mass are kept in subjection by force, and only a few among them attain comparatively a higher standard of civilization. Therefore we should avoid by all means superfluous public business, superfluous offices, and superfluous public expense.

24. In regard to the realizing of the necessary reform, we recommend the gradual improving of constitutions and laws.

First, we should establish throughout the Union uniformity in the right of voting, as the natural beginning of all public business; then we should abolish the army and navy,

and ambassadors, as soon as possible, meanwhile amending the constitutions, and not ceasing the work of reform until the principle of self-government be wholly realized.

25. We have omitted, in our plans of Constitutions, bills of rights. We have done so because we are satisfied, that, on close examination, it will be found that the liberty of education, instruction and industry, embraces all these rights, and more than are usually enumerated in these bills; and that it will serve as a more effectual protection to the people. A man cannot be industrious, if he is undeservedly imprisoned; and if so, he is entitled to damages. If the liberty to print, or to plough, or to cast iron, or to speak, or to preach, is infringed, we cannot instruct ourselves, or earn money to live upon. Self-governing freemen are never in danger of arbitrary laws. Our present Federal and State constitutions are superabundantly provided with bills of rights, precautions, and prohibitory injunctions, just as if our state officers were Asiatic-European autocrats. Notwithstanding, they could not check slavery, war, mercantile revulsions, state bankruptcies, crimes and mismanagement of the most outrageous kind. Instead of what we believed to be superfluous, we have added some axioms, which might well be generally adopted as American public and common law, abstracted from the principle of self-government, and not from the laws and usages of uncivilized nations. America is by nature destined to be the lawgiver of the world. She will become so if all her sons have the courage to be, in fact, what they proclaim themselves to be, self-governing freemen, and will go bravely to work to set all things right which are not in harmony with self-government.

APPENDIX.

A.

PLAN OF A CONSTITUTION FOR A STATE OF 200,000 VOTERS.

The freemen of the State of —— have established the following
CONSTITUTION.

1. *State.* The State of —— is one of the United States of ——, under the Constitution of the Confederation of the United States, dated ——, and is bounded north by ——, west by ——, south by ——, east by ——, and is at present divided into —— Counties and —— Towns.

(In an appendix the names of the Counties and Towns may be contained.)

2. *Voting.* The right of voting in all kinds of public business, and of electing public officers, shall belong to the freemen who are qualified, as follows:—

a. Over 21 years of age.

b. Married (widowers included.)

c. Sufficiently able to speak, read and write the language in public use.

d. When immigrants, one year's residence in the town where the vote is to be cast shall be required, in addition to the foregoing qualifications.

3. Excluded from voting and offices, *for the time being*, are, insane, confirmed drunkards, town-poor, convicts during the time of punishment;—*until admitted by a town vote*, public defaulters, convicts after the time of punishment has expired, and duellists. Public officers are not allowed to vote upon any question touching the objects under their care.

4. *Unmarried.* Unmarried persons of proper age can be elected as officers, (servants of the people.)

5. *Plurality* In all cases a plurality of votes shall elect to office.

6. *Towns.* All public business, and no other, within the limits of a town, and concerning the municipal interests of the people of the town, shall belong exclusively to the town freemen and their officers. Laws making exceptions to this rule shall become valid when approved by the town, but not otherwise.

7. *Districts.* For certain purposes districts may be formed out of several towns for a longer or shorter time, and towns may be divided into smaller districts, according to law.

8. *Town Expenses.* The town expenses shall be raised by direct taxation.

9. *Town Officers.* The town officers shall consist of the Selectmen, Mayor, and other necessary officers.

10. *Their Pay.* The town officers shall get a compensation for their services, beyond those in meetings and ordinary sessions.

11. *Election.* In towns of more than five thousand voters, the number of Selectmen shall be one to two hundred voters; in towns of less than five thousand voters, the number of Selectmen shall be one to one hundred voters.

12. *Two Chambers.* In large towns, the Selectmen may be divided by ballot into two chambers.

(In an appendix to the Constitution may be added general rules for the organization and administration of towns and counties.)

13. *Counties.* For public business requiring the co-operation of several towns, *counties* shall be organized.

14. *County Officers.* The public business in Counties shall be performed by a Board of County Commissioners, elected for two years. Half of the number shall have their seats after the lapse of one year, (the first time to be decided by ballot) afterwards, every year half of the number shall be elected.

15. *County Election.* Each town shall elect two County Commissioners. Out of their number a presiding officer, called Overseer, shall be elected by them. This board shall elect other necessary County Officers.

16. *County Expense.* The County expenses shall be raised by direct taxation.

17. *Districts.* Out of several Counties, Districts may be formed for business convenience, as harbor, river, navigation districts, &c.

18. *By-laws.* Counties and towns shall have the right to make *By-laws*. In towns they shall be made by the qualified voters, in counties by the commissioners.

19. *State.* The public business concerning the whole state, or of general interest, is either *legislative, judicial, or executive*.

20. *Legislature.* The state legislative business shall belong to the state legislature, which is divided into two houses, the Senate, and the House of Representatives.

21. *Election Qualifications.* A freeman to be eligible to the State Legislature shall possess,—

a. The qualifications of voting, mentioned in section 2, and shall have,

b. Served as a Selectman or Commissioner, or in any other constitutional public station for at least two years.

22. The members of the Senate shall be chosen for four years. After the first two years half of the number vacate their seats, which is decided by ballot. Each County shall elect one Senator.

23. Each town shall elect, biennially, one Representative, and each County one Senator for the respective vacated seats.

24. All State elections shall take place on the first Monday of —, on which day all public business shall be suspended.

25. *Legislative Members no State Officers.* A member of the Legislature cannot be, for the time being, elected to another State office.

26. *Disqualified.* Disqualified for the Legislature are all State and Congress officers with salary, or unsettled balances from their administration.

27. *Meeting.* The Legislature shall convene biennially on the first Monday of —, at the State Capitol.

28. *Opinions and Recommendations.* Three months before the Legislature assembles, the County Courts, the Supreme Court, and the State Attorney shall state briefly, in one of the County papers, a copy of which the County Clerk shall send to the office of the Secretary of State, if any change in the laws is deemed desirable for the improvement of the Judicial Department, and the interests of society in general.

29. *Impeaching.* To the Representatives belongs the right of impeaching. To the Senate belongs the right of trial of impeachments. In either instance a two-thirds vote is required. The sentence of the Senate is not prejudicial to the lawful procedures of the Courts.

30. *Speakers.* Both houses elect their speakers and other officers; they are the judges of the qualifications and elections of their own members, and sit upon their own adjournments. Two-thirds of each house have the right to do business, (quorum.)

31. *Vacancies.* Vacancies require new elections.

32. *Veto.* The laws of the Legislature shall require the approval of the Governor. On sufficient grounds he may veto them. If three-fourth parts of the Legislature, in joint ballot, insist upon the vetoed laws, they become valid.

33. *Pay.* The members of the Legislature shall receive a compensation according to law.

34. *Judicial Business.* The State judicial business is performed by the *Justices of the Peace*, (who are also Coroners,) *County Courts*, *Supreme Court*, *Jurors*, and *County and State Attornies*, and is either civil or criminal.

35. *Justices of the Peace.* In each town of about 500 voters, there shall be elected by the voters, two Justices of the Peace, to serve two years, whose duty it shall be to try small offences (against police and by-laws,) and civil cases in which the amount involved does not exceed \$100, and from whose decisions there shall be no appeal. It shall also be the duty of these Justices of the Peace to endeavor to affect an amicable arrangement of all matters in controversy between individuals, in which instances *no Jury*, but only the presence of a Town Clerk or Notary shall be required. Without a certificate of the Justice of the Peace and Town Clerk or Notary, that a reconciliatory adjustment has been tried, no suit shall be admitted by the County Courts. Justices of the Peace shall be re-eligible, and may be removed by the County Courts, according to law. They shall receive a compensation fixed by law. In cases where a jury is required, it shall consist only of six qualified voters.

36. *County Courts.* The County Courts shall try all civil and criminal cases, which do not lie within the province of the Justices of the Peace.

37. A County Court may be divided into two branches, one for civil and one for criminal cases, if the County Commissioners approve it.

38. A County Court shall consist of respectively two, three, or four judges, to be elected by the County Commissioners for four, six, or eight years. Biennially one recedes (by ballot.) The judges shall be re-eligible, and may be removed by the Governor, according to law. The oldest judge shall preside in the Court.

39. The requisites for a County Judge are in general that he shall have served as justice of the peace, or county or town clerk, or counsellor for at least two years.

40. *Supreme Court.* To the Supreme Court shall belong the appellate jurisdiction in all cases; the decision in all doubtful cases of competency among the County Courts; grants of trials in case of suspected partiality of a Court; the decision on the question of the constitutionality of laws; the right to ask for the records, sentences, testimonies, &c., of inferior Courts; the decision in cases arising under this Constitution.

41. The Supreme Court is composed of five Judges, who elect their President, called Chief Judge.

42. They are elected and removed according to law by the Legislature, serve eight years, are re-eligible, and receive a salary fixed by law for the time of appointment.

43. The seat of the Supreme Court shall be permanently in the capital town, it being no Circuit Court.

44. From the decision of the Supreme Court there shall be no further appeal.

45. *Jury.* In all criminal and civil cases, pending before the County Courts, a verdict of the Common Jury, consisting of twelve qualified voters shall be required. In all criminal cases an inquest and indictment of the Grand Jury, consisting of twenty-four qualified voters, shall be required. In cases pending before the Supreme Court, no Jury is required. The Jury in Justice Courts shall consist of six qualified voters.

46. *Foreign Laws.* No Court shall be allowed to refer to any foreign law authority.

47. *Town Executive.* The executive business in towns shall belong to the Mayor, Marshals, and other officers. The Marshals are elected for two years by the Selectmen, and removed according to law.

48. *County Executive.* The executive business in Counties shall belong to the Overseer, Sheriff, and other officers. The Sheriff shall be elected for two years by the County Commissioners. Marshals and Sheriffs shall have the right to elect deputies. The latter may be removed by the Commissioners according to law.

49. *State-Executive.* The executive power of the State shall be vested in the Governor, chosen every second year by the qualified voters. He is not re-eligible after the expiration of two years, but once later.

50. *Governor.* The requisites for a Governor are as follows. He shall have,

a. Served in either branch of the Legislature, or in County Courts, as judge, or clerk, or attorney, for two years, and shall not have—

b. Any office besides.

51. He shall have the control of the administration of the laws in general, shall inform the Legislature of the state of the public business, and shall appoint and remove, in conformity with the laws, the higher state officers and clerks, state and county attorneys, public notaries, and other state officers not otherwise provided. He shall have the right of veto, and act as the representative of the State in business with other States, and shall, to the best of his ability, watch that nothing is done by the public officers, that may infringe in any way the rights of independent self-governing freemen. He shall have a salary fixed by law.

52. If any vacancy happens, the Secretary of State shall cause forthwith a new election of Governor. Meanwhile the Speaker of the Senate or of the House of Representatives shall act as Governor.

53. *Lawyers. Imprisoned persons.* All persons enjoying the confidence of the magistrates or parties may be counsellors or lawyers. Every imprisoned person shall be forthwith provided with a counsellor.

54. *State Treasuries.* The State treasury, as well as the County and Town treasuries, shall be filled by direct taxation. The State treasury being the sub-treasury of the United States treasury, it shall be lawful for the Congressional quota to have a preference over all other State payments.

55. *State Treasury and Treasurer.* The State Treasurer shall be appointed by the Governor, by whom he may be removed according to law. He shall serve for two years, shall give security, and receive a salary fixed by law.

56. *County Treasurer.* The County Treasurer shall be appointed by the County Commissioners; he shall give security, serve for two years; is, like all other subordinate officers, re-eligible, and may be removed according to law.

57. *Town Treasurer.* The Town Treasurer shall be appointed by the Selectmen; he shall give security, and serve two years. He may be removed according to law.

58. No money shall be drawn from any public treasury without appropriation laws.

59. *Publicity.* The financial accounts of towns, counties, and states shall be published every year.

60. All sessions of the Legislature and Courts shall ordinarily be public. They may be closed in extraordinary instances. The treasury accounts shall likewise be open to the inspection of tax payers.

61. *Installment.* All public officers in towns, counties, and states, also all jurors, instead of an oath, shall give and sign the following official promise—

“I promise to fulfill my duties in conformity with the Constitution and Laws of the State and the Union, according to the best of my ability.”

62. *Public and Common Law.* It shall be American public and common law:—

a. That each actual primitive settler or pioneer on wild, unpossessed and unappropriated land, generally called government land or domain, shall be entitled to — acres, of which he shall be obliged to give up as much land as is required for public works, as land, stone, water, or iron, roads, or similar improvements, without compensation.

b. That a town containing over 2,000 voters, shall be divided into two towns; a county containing over 20,000 voters, into two counties; and a state containing over 200,000 voters, into two states.

c. That no law, act, or resolution shall be passed allowing or granting charters, incorporation rights, creating public debts, indirect taxes, or interfering in any way with the liberty of education, instruction and honest useful industry of the people.

d. That no state shall embark, directly or indirectly, in any business of a private character, or which may, or which may not be done by the freemen in towns or counties, or shall give bonds for such business; coin any money, or authorize paper money, under whatever name or form.

e. That there shall never be any resort to arms among freemen about state affairs.

f. That any persons making use of physical violence against unarmed public officers in the discharge of their official duties, shall, besides the deserved punishment, forfeit all political constitutional rights, until restored by a special vote of the town in which he resides.

g. That, if a person under arrest can find no bail, the courts shall continue the trial without any delay.

h. That no law shall be passed prescribing capital punishment, excessive bail, or other inhuman treatment.

i. That in general no law shall be valid, interfering, in any way, with the rights of self-government.

63. *Alterations of the Constitution.* Alterations of this Constitution take place, either by a two-thirds vote of the Legislature, approved by the qualified voters, or, after twenty-five years from its establishment, by a direct resolution of the voters on the question of amending and altering the Constitution by a Convention.

Date.

B.

PLAN OF A FEDERAL CONSTITUTION.

In order to secure the rights and blessings of Self-government, the Freemen in the different States of ——— have entered into a Confederation of States, and established the following—

FEDERAL CONSTITUTION.

1. *Confederated States.* The Confederation entered into under the name of the *United States of* ———, comprises at present the following States, viz., ———.

2. *Congress.* There shall be a Congress of the United States of ———, with certain *Legislative*, *Judicial*, and *Executive* powers.

3. The business belonging exclusively to Congress, in general, is,—

a. Protection of the fundamental rights of self-government, viz., liberty of education, instruction and industry; promotion of humanity by maintaining peace and justice at home and abroad, and preservation of the Union.

b. Establishing uniform principles in regard to cultivation of vacant wild land, and the size of a primitive lot, and of towns, counties, and states.

c. Coining money, regulating its value, and regulating weights and measures.

d. Raising funds for the Congressional treasury by drafts on the State treasuries, in conformity with the appropriation laws.

e. Adjusting and deciding disputes among the States.

f. Establishing an United States Tribunal.

g. Appointing consuls and special agents, and receiving consuls and foreign ministers.

h. Organizing the national defences in case of hostile invasion, if

the freemen of the whole Union shall decide in favor of defensive war.

i. Representing the Union abroad, and acting in all instances, where conflicts between the States and the Union, and the Union and foreign states require it.

k. Admitting new States into the Union if they have adopted this Constitution and established a State Constitution in conformity with the principles of self-government, and if the annexation has been approved by the qualified voters of the Union.

l. Convening once every year (second year,) on the first Monday of —, at the Capitol of the Union, and as often as the President thinks an extra session to be necessary.

4. *Legislature.* The federal legislative power is vested in the Congress of the United States, which shall consist of a Senate and House of Representatives.

5. *Representatives.* The House of Representatives shall be composed of members chosen every year (second year,) by the qualified voters.

6. *Elections.* About ten thousand qualified voters shall be entitled to one Representative. Each State shall elect at least two Representatives. No State shall elect more than twenty Representatives. In all elections plurality of votes shall decide.

7. The House of Representatives shall consist of not more than four hundred members.

8. *Qualified.* No person shall be a Congressional Representative or Senator who has not been before a member of a State Legislature.

9. *Speaker. Impeachment.* The House of Representatives shall choose their speaker and other officers, and have the right of impeachment. The speaker shall have a casting vote.

10. *Senate.* The Senate of the United States shall be composed of two Senators from each State, chosen by the Legislatures thereof for six years.

11. The Senators are divided as equally as may be, into three classes. They occupy their seats for respective two, four, and six years, so that one third shall be chosen every second year. Vacancies shall be filled by the Legislatures, and temporarily by the Governors.

12. *Vice President.* The Vice President of the United States shall be President of the Senate; he shall have only the casting vote.

13. *Powers of Senate.* The Senate shall have the power to try all impeachments, to appoint their own officers, and also a temporary President in the absence of the Vice President, or when he shall exercise the office of President of the United States.

14. *Choosing Representatives and Senators.* The elections of Representatives shall take place on the first Monday of —, and that of Senators at times when the Legislatures are in session.

15. *House Jurisdictions.* Each House shall have the jurisdiction over its members during the time of sessions, and of their qualifications. Two thirds shall decide and do business, (quorum.)

(The Rules of both Houses may be annexed in an Appendix.)

16. *Questions.* In all questions of importance the yeas and nays shall be recorded.

17. *Compensation.* The members of Congress shall receive a compensation for their services, according to law.

18. *Offices Forbidden.* No member of Congress shall be elected to any office of the United States, created, or the emoluments of which shall have been increased, during his time of election.

19. *Veto.* All bills of both Houses must be approved and signed by the President. If he does not return the bill within ten days, Sunday excepted, it shall be a law; if he returns it with his veto, the bill with his objections may be reconsidered, and, if approved by a two-third vote, become a law. The same shall take place with orders and resolutions of both Houses, except the resolution on the question of adjournment.

20. *Treasury.* The treasury of the United States shall be filled by direct taxes raised by the State treasurers. The quota of the Congress shall have a preference before all other payments from the State treasuries. The treasury accounts shall be published from time to time.

21. *Appropriation Laws.* Financial bills may originate in either House. Payments by the treasurer can be made only in conformity with appropriation laws.

22. *Unconstitutional Laws.* Any law enacted by Congress beyond their authority may be declared unconstitutional by the United States tribunal.

23. *Tribunal.* The judicial power of the United States shall belong to the United States Tribunal, consisting of five members.

24. *Jurisdiction.* They shall have original jurisdiction—

a. In all cases affecting consuls, or other public agents and ministers.

b. In all cases where the Union or a State shall be a party.

c. In all cases arising under the Constitution.

They shall have only appellate jurisdiction in cases between parties of different States, and foreign citizens and citizens of the United States.

25. Trials before the United States Tribunal shall be without juries, except at the instance of the parties.

26. This Tribunal shall have, for the dispatch of business, the right to select a County Court of any State, to try the cases belonging to its jurisdiction.

27. *Common Law.* It shall give, from time to time, its opinion to Congress on the state of the laws and jurisprudence throughout the Union; its decisions in law shall be the principal basis of American public and common law.

28. *Duration of Office.* The members of this Tribunal shall hold their offices during good behavior.

29. *Foreign Laws.* Reference to foreign laws shall not be allowed in questions belonging to its jurisdiction.

30. *No Circuit Court.* This Tribunal is no Circuit Court. Its permanent seat is where Congress meets.

31. *President.* The executive power of the Federal Congress shall be vested in a President of the United States of ———, and in case of vacancy, in the Vice President; and if both should be out of office, by that person who shall be declared acting President by Congress in joint ballot. Plurality of votes shall decide.

32. *Office Time.* The President shall hold his office during the term of four years, together with the Vice President. He is not re-eligible after the expiration of four years, but later, once more.

33. *Qualification.* No person shall be President who has not been a

member of Legislatures, Congress, or the higher Courts, for at least eight years.

34. *Election.* The President and Vice President shall be elected on the first Monday of ———, by the qualified voters. Plurality of votes shall decide.

35. *Salary.* The salaries of both the President and Vice President and other officers of Congress, shall be fixed by law.

36. *Installation.* Before entering his office, the President shall give and sign the following official promise,—

That he will faithfully execute the office of the President of the United States, and will, to the best of his ability, preserve the Constitution of the United States of ———.

37. *Consuls.* The President shall appoint and remove all federal officers, consuls, and special agents, in conformity with laws regulating this power, and shall receive foreign diplomatists.

38. *War.* The President shall be, in case of a hostile foreign invasion, which could not be prevented by negotiation, Commander-in-Chief of all the forces of the Union. He shall not be allowed to call to arms, until the qualified voters of the Union have decided in favor of defensive war.

39. If war has been resolved upon by the voters, all male persons, able to bear arms, from eighteen to forty years of age, shall be, so far as necessary, mustered into service for self defence. The armed men in towns shall elect their officers and commanders; these shall elect the county officers and commanders, and these last the commander of the State forces. The President shall give the commissions. All shall lay down their arms when ordered by the President or respective Governors.

40. No armed force shall be used beyond the limits of the United States.

41. No land shall be acquired by force of arms.

42. *Annexation.* Applications for the admission of new States into the Union shall be transmitted to the President, who shall lay them, together with the accompanying documents, as constitution, census, approbation of the Federal Constitution, &c., before Congress. If both President and Congress have no objections, the question of admission shall be brought before the qualified voters for ratification, and if their decision be favorable, the annexation shall take place, otherwise not.

43. *Self-Government.* The freemen of the United States of ———, are pledged not to admit any other form of government than that which is founded upon the principle of self-government with representative forms.

44. *Laws.* The legislative bodies, courts and tribunals in the United States shall do all in their power to render the laws and judicial proceedings simple and uniform all over the Union.

45. *Public Faith.* Full faith and credit shall be given, in each State, to the public Legislative acts, judicial records, and executive documents of every other State.

46. *Public and Common Law.* It shall be (American) public and common law—

a. That each actual primitive settler or pioneer on wild, unpossessed and unappropriated land shall be entitled to ——— acres, of which he shall be obliged to give as much land as is required for public works,

as land, stone, water, and iron, roads and similar public improvements, without compensation.

b. That a town containing over 2000 voters shall be divided into two towns, and a county containing over 20,000 voters into two counties, and a State containing over 200,000 voters, into two States.

c. That simple discovery, not followed by possession and occupation, shall give no right of property to land.

d. That what is called on the eastern continent, sovereignty, shall belong in America, to the freemen.

e. That neither Congress nor any State shall embark in any business of a private character, or which may be done by towns and counties; or shall contract any debts, or authorize or make for themselves any paper money, under whatever name or form.

f. That no law shall be made granting licenses, charters, incorporation acts, levying indirect taxes, allowing personal privileges, or interfering in any way with the liberty of education, instruction, and honest industry in the widest sense of the words, and the right of voting, which shall belong exclusively to all male persons over twenty-one years of age, who are or have been married; are sufficiently able to speak, read and write the language in public use; and, when immigrants, have resided one year in the town where the vote is to be cast.

g. That in case a dispute between Congress and a foreign government about boundary lines cannot be amicably settled, the freemen occupying the disputed land shall decide the question, instead of having recourse to arbitration. A board of three agents, (one from each government and one appointed by the freemen in question,) shall take the votes upon the question thus,—if the freemen wish to form a State of their own, or wish to join either of the disputing States or Governments. The result of this vote shall decide the dispute. About unsettled wild land no dispute shall take place.

h. That there shall not be any resort to arms about State affairs.

i. That no capital punishment shall take place in the Union, neither shall excessive bail or fines be required, and that in all criminal cases an inquest of the grand jury shall be had.

j. That in all civil and criminal cases a trial by the common jury shall take place, with the exception of cases pending before the United States Tribunal and Supreme Courts of the States.

k. That any person using physical violence against unarmed public officers in the discharge of their official duties, shall forfeit all political rights, until restored by a special vote of the town in which he resides.

l. That the State and Federal Constitutions shall be construed thus,—never to interfere with the rights of self-government, but only to protect and guarantee them.

47. Alterations. Alterations of this Constitution shall take place either by a two-thirds vote of Congress, approved by a majority of the State Legislatures, or after fifty years from its establishment; when the question shall be laid before the freemen, whether they wish to elect a Convention to amend and alter the Constitution, or not.

Date,

C.

EXTRACTS FROM THE
CONSTITUTIONS OF THE UNITED STATES AND OF KENTUCKY.

CONSTITUTION OF THE UNITED STATES, ARTICLE I., SECTION 2, § 3.—
“Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, INCLUDING THOSE BOUND TO SERVICE FOR A TERM OF YEARS, and excluding Indians not taxed, three-fifths of all other persons,” &c.

CONSTITUTION OF KENTUCKY. ARTICLE 7, CONCERNING SLAVES, § 1.—
“The general assembly shall have no power to pass laws for the emancipation of slaves without the consent of their owners, or without paying their owners, previous to such emancipation, a full equivalent in money for the slaves so emancipated. They shall have no power to prevent emigrants to this State from bringing with them such persons as are deemed slaves by the laws of any one of the United States, so long as any person of the same age or description shall be continued in slavery by the laws of this State. They shall pass laws to permit the owners of slaves to emancipate them, saving the rights of creditors, and preventing them from becoming a charge to any county in this commonwealth. They shall have full power to prevent slaves being brought into this State as merchandize. They shall have full power to prevent any slaves being brought into this State, who have been, since the first day of January, one thousand seven hundred and eighty-nine, or may hereafter be, imported into any of the United States from a foreign country. And they shall have full power to pass such laws as may be necessary to oblige the owners of slaves to treat them with humanity, to provide for them necessary clothing and provision, to abstain from all injuries to them extending to life, or limb, and in case of their neglect or refusal to comply with the directions of such laws, to have such slaves sold for the benefit of their owner or owners.

§ 2. In the prosecution of slaves for felony, no inquest by a grand jury shall be necessary, but the proceedings in such prosecutions shall be regulated by law, except that the general assembly shall have no power to deprive them of the privilege of an impartial trial by a petit jury.”

D.

NEW CONSTITUTION OF THE STATE OF NEW YORK.

EXAMINED ACCORDING TO THE PRINCIPLES OF SELF-GOVERNMENT LAID DOWN IN THIS BOOK.

WE, the PEOPLE, of the State of New York, grateful to ALMIGHTY God for our Freedom, in order to secure its blessings, do establish this Constitution :

Instead of “People” should be said freemen, because servants, children, &c., who are comprised in the word people, do not make constitutions.

ARTICLE 1. *Bill of Rights*.—No member of this State shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

Superfluous, because there are no peers in America. The sentence is faulty also if the word "peers" should be used instead of "equals."

2. The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate forever. But a jury trial may be waived by the parties in all civil cases, in the manner to be prescribed by law.

The word "forever" is wrong; men cannot do much of any thing which lasts forever.

3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed in this State to all mankind; and no person shall be rendered incompetent to be a witness on account of his opinion on matters of religious belief; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this State.

Superfluous.

4. The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

5. Excessive bail shall not be required, nor excessive fines imposed, nor shall cruel and unusual punishments be inflicted, nor shall witnesses be unreasonably detained.

6. No person shall be held to answer for a capital or otherwise infamous crime, (except in cases of impeachment, and in cases of the militia, when in actual service; and the land and naval forces in time of war, or which this State may keep with the consent of Congress in time of peace; and in cases of petit larceny, under the regulation of the Legislature,) unless on presentment or indictment of a Grand Jury, and in any trial in any court whatever, the party accused shall be allowed to appear and defend in person and with counsel, as in civil actions. No person shall be subject to be twice put in jeopardy for the same offence; nor shall he be compelled in any criminal case to be a witness against himself; nor be deprived of life, liberty or property without due process of law; nor shall private property be taken for public use without just compensation.

Belongs not exactly in a Constitution.

7. When private property shall be taken for any public use, the compensation to be made therefor, when such compensation is not made by the State, shall be ascertained by a jury, or by not less than three commissioners appointed by a court of record, as shall be prescribed by law. Private roads may be opened in the manner to be prescribed by law; but in every case the necessity of the road, and the amount of all damage to be sustained by the opening thereof, shall be first determined by a jury of freeholders, and such amount, together with the expenses of the proceeding, shall be paid by the person to be benefitted.

The same as above.

8. Every citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right; and no

law shall be passed to restrain or abridge the liberty of speech or of the press. In all criminal prosecutions or indictments for libel, the truth may be given in evidence to the jury ; and if it shall appear to the jury that the matter charged as libellous is true, and was published with good motives and for justifiable ends, the party shall be acquitted, and the jury shall have the right to determine the law and the fact.

Matter of course.

9. The assent of two-thirds of the members elected to each branch of the Legislature, shall be requisite to every bill appropriating the public moneys or property for local or private purposes.

Against the principles of self-government.

10. No law shall be passed abridging the right of the people peaceably to assemble, and to petition the government, or any department thereof ; nor shall any divorce be granted, otherwise than by due judicial proceedings ; nor shall any lottery hereafter be authorized, or any sale of lottery tickets allowed, within this State.

Matter of course, and of special law-giving.

11. The people of this State, in their right of sovereignty, are deemed to possess the original and ultimate property in and to all lands within the jurisdiction of the State ; and all lands, the title to which shall fail, from a defect of heirs, shall revert or escheat to the people.

The first sentence is against the principle of self-government and superfluous. Instead of the last word "people," "town."

12. All feudal tenures of every description, with all their incidents, are declared to be abolished ; saving however, all rents and services certain which at any time heretofore have been lawfully created or reserved.

13. All lands within this State are declared to be allodial, so that, subject only to the liability to escheat, the entire and absolute property is vested in the owners according to the nature of their respective estates.

14. No lease or grant of agricultural land for a longer period than twelve years, hereafter made, in which shall be reserved any rent or service of any kind, shall be valid.

Is matter of special lawgiving.

15. All fines, quarter sales, or other like restraints upon alienation reserved, in any grant of land hereafter to be made, shall be void.

Same as above.

16. No purchase or contract for the sale of lands in this State, made since the fourteenth day of October, one thousand seven hundred and seventy-five ; or which may hereafter be made, of, or with the Indians, shall be valid, unless made under the authority and with the consent of the Legislature.

Is matter of special law, and against the principle of self-government.

17. Such parts of the common law, and of the acts of the Legislature of the colony of New York, as together did form the law of the said colony, on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the Congress of said colony, and of the Convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven,

which have not since expired, or been repealed or altered; and such acts of the Legislature of this State as are now in force, shall be and continue the law of this State, subject to such alterations as the Legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this Constitution, are hereby abrogated, and the Legislature, at its first session after the adoption of this Constitution, shall appoint three commissioners, whose duty it shall be to reduce into a written and systematic code the whole body of the law of this State, or so much and such parts thereof as to the said commissioners shall seem practicable and expedient. And the said commissioners shall specify such alterations and amendments therein as they shall deem proper, and they shall at all times make reports of their proceedings to the Legislature, when called upon to do so; and the Legislature shall pass laws regulating the tenure of office, the filling of vacancies therein, and the compensation of said commissioners; and shall also provide for the publication of the said code, prior to its being presented to the Legislature for adoption.

Is matter of special laws.

18. All grants of land within this State, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this Constitution shall affect any grants of land within this State, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made, before that day; or shall affect any such grants or charters since made by this State, or by persons acting under its authority, or shall impair the obligation of any debts contracted by this State, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings in courts of justice.

The same as above.

ARTICLE II. *The Elective Franchise*.—1. Every male citizen of the age of twenty-one years, who shall have been a citizen for ten days, and an inhabitant of this State one year next preceding any election, and for the last four months a resident of the county where he may offer his vote, shall be entitled to vote at such election in the election district of which he shall at the time be a resident, and not elsewhere, for all officers that now are or hereafter may be elected by the people; but such citizen shall have been for thirty days next preceding the election, a resident of the district from which the officer is to be chosen for whom he offers his vote. But no man of color, unless he shall have been for three years a citizen of this State, and for one year next preceding any election shall have been seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and encumbrances charged thereon, and shall have been actually rated and paid a tax thereon, shall be entitled to vote at such election. And no person of color shall be subject to direct taxation unless he shall be seized and possessed of such real estate as aforesaid.

Is not in accordance with the principle of self-government.

2. Laws may be passed excluding from the right of suffrage all per-

sons who have been, or may be convicted of bribery, larceny, or of any infamous crime, and for depriving every person who shall make, or become directly or indirectly interested in any bet or wager depending upon the result of any election, from the right to vote at such election.

3. For the purpose of voting, no person shall be deemed to have gained or lost a residence, by reason of his presence or absence, while employed in the service of the United States; nor while engaged in the navigation of the waters of this State, or of the United States, or of the high seas; nor while a student of any seminary of learning, nor while kept at any alms house, or other asylum, at public expense; nor while confined in any public prison.

Superfluous.

4. Laws shall be made for ascertaining by proper proofs the citizens who shall be entitled to the right of suffrage hereby established.

5. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

Does not belong in a Constitution.

ARTICLE III. *Legislative*.—1. The legislative power of this State shall be vested in a Senate and Assembly.

2. The Senate shall consist of thirty-two members, and the Senators shall be chosen for two years. The Assembly shall consist of one hundred and twenty-eight members, who shall be annually elected.

3. The State shall be divided into thirty-two districts, to be called Senate Districts, each of which shall choose one Senator. The districts shall be numbered from one to thirty-two inclusive. District No. 1, shall consist of the counties of Suffolk, Richmond and Queens. District No. 2 shall consist of the county of Kings. Districts Nos. 3, 4, 5, and 6, shall consist of the city and county of New York. And the board of supervisors of said city and county shall, on or before the first day of May, 1847, divide the said city and county into the number of Senate Districts to which it is entitled, as near as may be of an equal number of inhabitants excluding aliens and persons of color not taxed, and consisting of convenient and contiguous territory, and no Assembly District shall be divided in the formation of a Senate District. The board of supervisors, when they shall have completed such division, shall cause certificates thereof, stating the number and boundaries of each district and the population thereof, to be filed in the office of the Secretary of State, and of the clerk of the said city and county. District No. 7 shall consist of the counties of Westchester, Putnam and Rockland. District No. 8 shall consist of the counties of Dutchess and Columbia. District No. 9 shall consist of the counties of Orange and Sullivan. District No. 10 shall consist of the counties of Ulster and Greene. District No. 11 shall consist of the counties of Albany and Schenectady. District No. 12 shall consist of the county of Rensselaer. District No. 13 shall consist of the counties of Washington and Saratoga. District No. 14 shall consist of the counties of Warren, Essex and Clinton. District No. 15 shall consist of the counties of St. Lawrence and Franklin. District No. 16 shall consist of the counties of Herkimer, Hamilton, Fulton and Montgomery. District No. 17 shall consist of the counties of Schoharie and Delaware. District No. 18 shall consist of the counties of Otsego and Chenango. District No. 19 shall consist of the county of Oneida. District No. 20

shall consist of the counties of Madison and Oswego. District No. 21 shall consist of the counties of Jefferson and Lewis. District No. 22 shall consist of the county of Onondaga. District No. 23 shall consist of the counties of Cortland, Broome and Tioga. District No. 24 shall consist of the counties of Cayuga and Wayne. District No. 25 shall consist of the counties of Tompkins, Seneca and Yates. District No. 26 shall consist of the counties of Steuben and Chemung. District No. 27 shall consist of the county of Monroe. District No. 28 shall consist of the counties of Orleans, Genesee and Niagara. District No. 29 shall consist of the counties of Ontario and Livingston. District No. 30 shall consist of the counties of Allegany and Wyoming. District No. 31 shall consist of the county of Erie. District No. 32 shall consist of the counties of Chautauque and Cattaraugus.

This list does not belong to the Constitution.

4. An enumeration of the inhabitants of the State shall be taken under the direction of the Legislature, in the year one thousand eight hundred and fifty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the Legislature, at the first session after the return of every enumeration, that each Senate District shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, and persons of color not taxed; and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory, and no county shall be divided in the formation of a Senate District, except such county shall be equitably entitled to two or more Senators.

5. The members of Assembly shall be apportioned among the several counties of this State, BY THE LEGISLATURE as nearly as may be, according to the number of their respective inhabitants, excluding aliens, and persons of color not taxed, and shall be chosen by single districts.

The several boards of supervisors in such counties of this State, as are now entitled to more than one member of Assembly, shall assemble on the first Tuesday of January next, and divide their respective counties into Assembly Districts equal to the number of members of Assembly to which such counties are now severally entitled by law, and shall cause to be filed in the offices of the Secretary of State and the clerks of their respective counties, a description of such Assembly Districts, specifying the number of each district and the population thereof, according to the last preceding State enumeration, as near as can be ascertained. Each Assembly District shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens and persons of color not taxed, and shall consist of convenient and contiguous territory; but no town shall be divided in the formation of Assembly Districts.

The Legislature, at its first session after the return of every enumeration, shall re-apportion the members of Assembly among the several counties of this State, in manner aforesaid, and the boards of supervisors in such counties as may be entitled, under such re-apportionment, to more than one member, shall assemble at such time as the Legislature making such re-apportionment shall prescribe, and divide such counties into Assembly Districts, in the manner herein directed; and the apportionment and districts so to be made shall remain unaltered until another enumeration shall be taken under the provisions of the preceding section.

Every county heretofore established and separately organized, except the county of Hamilton, shall always be entitled to one member of the Assembly, and no new county shall be hereafter erected, unless its population shall entitle it to a member.

The county of Hamilton shall elect with the county of Fulton, until the population of the county of Hamilton shall, according to the ratio, be entitled to a member.

The second sentence is matter of special law from the words "the several boards" to "entitled to a member."

6. The members of the Legislature shall receive for their services a sum not exceeding three dollars a day, from the commencement of the session; but such pay shall not exceed in the aggregate three hundred dollars for per diem allowance, except in the proceedings for impeachment. The limitation as to the aggregate compensation shall not take effect until 1848. When convened in extra session by the Governor, they shall receive three dollars per day. They shall also receive the sum of one dollar for every ten miles they shall travel, in going to and returning from their place of meeting on the most usual route. The Speaker of the Assembly shall, in virtue of his office, receive an additional compensation equal to one-third of his per diem allowance as a member.

Special lawgiving.

7. No member of the Legislature shall receive any civil appointment within this State, or to the Senate of the United States, from the Governor, the Governor and Senate, or from the Legislature, during the term for which he shall have been elected; and all such appointments, and all votes given for any such member, for any such office or appointment, shall be void.

The last sentence is superfluous.

8. No person being a member of Congress, or holding any judicial or military office under the United States, shall hold a seat in the Legislature. And if any person shall, after his election as a member of the Legislature, be elected to Congress, or appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

9. The elections of Senators and members of Assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, unless otherwise directed by the Legislature.

10. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the elections, returns and qualifications of its own members, shall choose its own officers, and the Senate shall choose a temporary president, when the Lieutenant-Governor shall not attend as president, or shall act as Governor.

11. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

12. For any speech or debate in either house of the Legislature, the members shall not be questioned in any other place.

Superfluous.

13. Any bill may originate in either house of the Legislature, and all bills passed by one house may be amended by the other.

14. The enacting clause of all bills shall be "The people of the State of New York, represented in Senate and Assembly, do enact as follows," and no law shall be enacted except by bill.

15. No bill shall be passed unless by the assent of a majority of all the members elected to each branch of the Legislature, and the question upon the final passage shall be taken immediately upon its last reading, and the yeas and nays entered on the journal.

16. No private or local bill, which may be passed by the Legislature, shall embrace more than one subject, and that shall be expressed in the title.

17. The Legislature may confer upon the boards of supervisors, of the several counties of the State, such farther powers, local, legislative and administrative, as they shall from time to time prescribe.

Is matter of course.

ARTICLE IV. *Executive*.—1. The executive power shall be vested in a Governor, who shall hold his office for two years; a Lieutenant-Governor shall be chosen at the same time, and for the same term.

2. No person, except a citizen of the United States, shall be eligible to the office of Governor; nor shall any person be eligible to that office, who shall not have attained the age of thirty years, and who shall not have been five years next preceding his election, a resident within this State.

3. The Governor and Lieutenant-Governor shall be elected at the times and places of choosing members of the Assembly. The persons respectively having the highest number of votes for Governor and Lieutenant-Governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for Governor, or for Lieutenant-Governor, the two houses of the Legislature at its next annual session, shall, forthwith, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for Governor, or Lieutenant-Governor.

4. The Governor shall be Commander-in-Chief of the military and naval forces of the State. He shall have power to convene the Legislature (or the Senate only,) on extraordinary occasions. He shall communicate by message to the Legislature at every session, the condition of the State, and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the Legislature, and shall take care that the laws are faithfully executed. He shall, at stated times, receive for his services a compensation to be established by law, which shall neither be increased nor diminished after his election and during his continuance in office.

The first sentence is not in accordance with the principle of self-government in a confederate state.

5. The Governor shall have the power to grant reprieves, commutations and pardons after conviction, for all offences except treason and cases of impeachment, upon such conditions, and with such restrictions and limitations as he may think proper, subject to such regulation as may be provided by law, relative to the manner of applying for pardons. Upon conviction for treason, he shall have power to sus-

pend the execution of the sentence, until the case shall be reported to the Legislature at its next meeting, when the Legislature shall either pardon or commute the sentence, direct the execution of the sentence, or grant a farther reprieve. He shall annually communicate to the Legislature each case of reprieve, commutation or pardon granted; stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve.

The same, and matter of special lawgiving.

6. In case of the impeachment of the Governor, or his removal from office, death, inability to discharge the powers and duties of the said office, resignation, or absence from the State, the powers and duties of the office shall devolve upon the Lieutenant-Governor for the residue of the term, or until the disability shall cease. But when the Governor shall, with the consent of the Legislature, be out of the State in time of war, at the head of a military force thereof, he shall continue Commander-in-Chief of all the military force of the State.

7. The Lieutenant-Governor shall possess the same qualifications of eligibility for office as the Governor. He shall be President of the Senate, but shall have only a casting vote therein. If, during a vacancy of the office of Governor, the Lieutenant-Governor shall be impeached, displaced, resign, die, or become incapable of performing the duties of his office, or be absent from the State, the President of the Senate shall act as Governor, until the vacancy be filled, or the disability shall cease.

8. The Lieutenant-Governor shall, while acting as such, receive a compensation which shall be fixed by law, and which shall not be increased or diminished during his continuance in office.

9. Every bill which shall have passed the Senate and Assembly, shall, before it becomes a law, be presented to the Governor: if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and if approved by two-thirds of all the members present, it shall become a law, notwithstanding the objections of the Governor. But in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the members voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the Governor within ten days (Sundays excepted,) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the Legislature shall, by their adjournment, prevent its return, in which case it shall not be a law.

ARTICLE V. *Administrative.*—1. The Secretary of State, Comptroller, Treasurer and Attorney General shall be chosen at a general election, and shall hold their offices for two years. Each of the officers in this article named (except the Speaker of the Assembly,) shall at stated times, during his continuance in office, receive for his services a compensation, which shall not be increased or diminished during the term for which he shall have been elected; nor shall he receive, to his use, any fees or perquisites of office, or other compensation,

2. The State Engineer and Surveyor shall be chosen at a general election, and shall hold his office two years, but no person shall be elected to said office who is not a practical engineer.

These State officers cannot occur in a self-governing community, because their business belongs to the province of every body and towns.

3. Three Canal Commissioners shall be chosen at the general election, which shall be held next after the adoption of this Constitution, one of whom shall hold his office for one year, one for two years, and one for three years. [The Commissioners of the Canal Fund shall meet at the Capitol on the first Monday of January, next after such election, and determine by lot which of said Canal Commissioners shall hold his office for one year, which for two, and which for three years;] and there shall be elected annually thereafter, one Canal Commissioner, who shall hold his office for three years.

The same, and special lawgiving.

4. Three inspectors of State Prisons shall be elected at the general election which shall be held next after the adoption of this Constitution, one of whom shall hold his office for one year, one for two years, and one for three years. [The Governor, Secretary of State, and Comptroller shall meet at the Capitol on the first Monday of January next succeeding such election, and determine by lot which of said Inspectors shall hold his office for one year, which for two, and which for three years;] and there shall be elected annually thereafter one Inspector of State Prisons, who shall hold his office for three years; said Inspectors shall have the charge and superintendence of the State prisons, and shall appoint all the officers therein. All vacancies in the office of such inspector shall be filled by the Governor, till the next election.

These subaltern officers should be elected by the Governor.

5. The Lieutenant-Governor, Speaker of the Assembly, Secretary of State, Comptroller, Treasurer, Attorney General, and State Engineer and Surveyor, shall be the Commissioners of the Land Office.

No Land Office can occur in a self-governing commonwealth.

The Lieutenant-Governor, Secretary of State, Comptroller, Treasurer, and Attorney General, shall be the Commissioners of the Canal Fund.

The Canal Board shall consist of the Commissioners of the Canal Fund, the State Engineer and Surveyor, and the Canal Commissioners.

The same in regard to canals; besides matter of special law.

6. The powers and duties of the respective boards, and of the several officers in this article mentioned, shall be such as now are or hereafter may be prescribed by law.

7. The Treasurer may be suspended from office by the Governor, during the recess of the Legislature, and until thirty days after the commencement of the next session of the Legislature, whenever it shall appear to him that such Treasurer has, in any particular, violated his duty. The Governor shall appoint a competent person to discharge the duties of the office during such suspension of the Treasurer.

8. All offices for the weighing, guaging, measuring, culling or inspecting any merchandize, produce, manufacture or commodity what-

ever, are hereby abolished, and no such office shall hereafter be created by law; but nothing in this section contained shall abrogate any office created for the purpose of protecting the public health or the interests of the State, in its property, revenue, tolls or purchases, or of supplying the people with correct standards of weights and measures, or shall prevent the creation of any office for such purposes hereafter.

Mostly matter of special law.

ARTICLE VI. *The Judiciary*.—1. The Assembly shall have the power of impeachment, by the vote of a majority of all the members elected. The court for the trial of impeachments shall be composed of the President of the Senate, the Senators, or a major part of them, and the judges of the court of appeals, or the major part of them. On the trial of an impeachment against the Governor, the Lieutenant-Governor shall not act as a member of the court. No judicial officer shall exercise his office after he shall have been impeached, until he shall have been acquitted. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment, according to evidence; and no person shall be convicted, without the concurrence of two-thirds of the members present. Judgment in cases of impeachment shall not extend farther than to removal from office, or removal from office and disqualification to hold and enjoy any office of honor, trust or profit under this State; but the party impeached shall be liable to indictment and punishment according to law.

2. There shall be a court of appeals, composed of eight judges, of whom four shall be elected by the electors of the State, for eight years, and four selected from the class of Justices of the Supreme Court having the shortest time to serve. Provision shall be made by law, for designating one of the number elected, as chief judge, and for selecting such Justices of the Supreme Court, from time to time, and for so classifying those elected, that one shall be elected every second year.

3. There shall be a Supreme Court having general jurisdiction in law and equity.

The Court of Appeal and Supreme Court should be merged into one Supreme Court, with appellate jurisdiction.

4. The State shall be divided into eight judicial districts, of which the city of New York shall be one; the others to be bounded by county lines, and to be compact and equal in population as nearly as may be. There shall be four Justices of the Supreme Court in each district, and as many more in the district composed of the city of New York as may from time to time be authorized by law, but not to exceed in the whole such number in proportion to its population as shall be in conformity with the number of such judges in the residue of the State, in proportion to its population. They shall be classified so that one of the justices of each district shall go out of office at the end of every two years. After the expiration of their terms under such classification, the term of their office shall be eight years.

This division is superfluous if a non-circuit Supreme Court is established.

5 The Legislature shall have the same powers to alter and regulate the jurisdiction and proceedings in law and equity as they have heretofore possessed.

Superfluous.

6. Provision may be made by law for designating, from time to time, one or more of the said justices, who is not a judge of the court of appeals, to preside at the general terms of the said court to be held in the several districts. Any three or more of the said justices, of whom one of the said justices so designated shall always be one, may hold such general terms. And any one or more of the justices may hold special terms and circuit courts, and any one of them may preside in courts of oyer and terminer in any county.

Not belonging in a Constitution.

7. The judges of the court of appeals and justices of the supreme court, shall severally receive at stated times for their services, a compensation to be established by law, which shall not be increased or diminished during their continuance in office.

8. They shall not hold any other office or public trust. All votes for either of them, for any elective office (except that of justice of the supreme court, or judge of the court of appeals,) given by the Legislature or the people, shall be void. They shall not exercise any power of appointment to public office. Any male citizen of the age of twenty-one years, of good moral character, and who possesses the requisite qualifications of learning and ability, shall be entitled to admission to practice in all the courts of this State.

9. The classification of the justices of the supreme court; the times and place of holding the terms of the court of appeals, and of the general and special terms of the supreme court within the several districts, and the circuit courts and courts of oyer and terminer within the several counties, shall be provided for by law.

This business may be avoided by establishing a County Court for all civil and criminal cases, and a Supreme Court for all appeals.

10. The testimony in equity cases shall be taken in like manner as in cases at law.

Superfluous, or belonging to a special law.

11. Justices of the supreme court and judges of the court of appeals may be removed by concurrent resolution of both Houses of the Legislature, if two-thirds of all the members elected to the Assembly, and a majority of all the members elected to the Senate concur therein. All judicial officers, except those mentioned in this section, and except justices of the peace, judges and justices of inferior courts not of record, may be removed by the Senate, on the recommendation of the Governor; but no removal shall be made by virtue of this section, unless the cause thereof be entered on the journals; nor unless the party complained of shall have been served with a copy of the complaint against him, and shall have had an opportunity of being heard in his defence. On the question of removal, the ayes and noes shall be entered on the journals.

Special lawgiving.

12. The judges of the court of appeals shall be elected by the electors of the State, and the justices of the supreme court by the electors of the several judicial districts, at such times as may be prescribed by law.

13. In case the office of any judge of the court of appeals, or justice of the supreme court, shall become vacant before the expiration

of the regular term for which he was elected, the vacancy may be filled by appointment by the Governor, until it shall be supplied at the next general election of judges, when it shall be filled by election for the residue of the unexpired term.

14. There shall be elected in each of the counties of this State, except the city and county of New York, one county judge, who shall hold his office for four years. He shall hold the county court, and perform the duties of the office of surrogate. The county court shall have such jurisdiction in cases arising in justices' courts, and in special cases, as the Legislature may prescribe, but shall have no original civil jurisdiction, except in such special cases.

The county judge, with two justices of the peace, to be designated according to law, may hold courts of sessions with such criminal jurisdiction as the Legislature shall prescribe, and perform such other duties as may be required by law.

The county judge shall receive an annual salary, to be fixed by the board of supervisors, which shall be neither increased nor diminished during his continuance in office. The justices of the peace, for services in courts of sessions, shall be paid a per diem allowance out of the county treasury.

In counties having a population exceeding forty thousand, the Legislature may provide for the election of a separate officer to perform the duties of the office of surrogate.

The Legislature may confer equity jurisdiction in special cases upon the county judge.

Inferior local courts, of civil and criminal jurisdiction, may be established by the Legislature in cities; and such courts, except for the cities of New York and Buffalo, shall have an uniform organization and jurisdiction in such cities.

Is insufficient, and against the principle of self-government. By Justices of the Peace and County Courts all the principal original judicial business ought to be done, without regard to useless distinctions between equity and law judicial business. The more business, the more Court terms. The office of Justice of the Peace must be second to none in importance.

15. The Legislature may, on application of the board of supervisors, provide for the election of local officers, not to exceed two in any county, to discharge the duties of county judge and of surrogate in cases of their inability, or of a vacancy, and to exercise such other powers in special cases as may be provided by law.

16. The Legislature may reorganize the judicial districts at the first session after the return of every enumeration under this Constitution, in the manner provided for in fourth section of this article, and at no other time; and they may at such session, increase or diminish the number of districts, but such increase or diminution shall not be more than one district at any one time. Each district shall have four Justices of the Supreme Court; but no diminution of the districts shall have the effect to remove a judge from office.

Is for the most part superfluous. Where towns and counties are well organized, there cannot be any need of extra-judicial districts.

17. The electors of the several towns shall, at their annual town meeting, and in such manner as the Legislature may direct, elect justices of the peace, whose term of office shall be four years. In case of an election to fill a vacancy occurring before the expiration of a full term, they shall hold for the residue of the unexpired term. Their

number and classification may be regulated by law. Justices of the peace and judges or justices of inferior courts, not of record, and their clerks, may be removed, (after due notice and an opportunity of being heard in their defence,) by such county, city or State courts as may be prescribed by law, for causes to be assigned in the order of removal.

18. All judicial officers of cities and villages, and all such judicial officers as may be created therein by law, shall be elected at such times and in such manner as the Legislature may direct.

19. The clerks of the several counties of this State shall be clerks of the Supreme Court, with such powers and duties as shall be prescribed by law. A clerk for the Court of Appeals to be *ex officio* clerk of the Supreme Court, and to keep his office at the seat of government, shall be chosen by the electors of the State; he shall hold his office for three years, and his compensation shall be fixed by law and paid out of the public treasury.

20. No judicial officer, except justices of the peace, shall receive to his own use any fees or perquisites of office.

21. The Legislature may authorize the judgments, decrees and decisions of any local inferior court of record of original civil jurisdiction, established in a city, to be removed for review directly into the Court of Appeals.

The higher Court must have the right to ask for papers from the inferior Court.

22. The Legislature shall provide for the speedy publication of all statute laws, and of such judicial decisions as it may deem expedient. And all laws and judicial decisions shall be free for publication by any person.

Is superfluous.

23. Tribunals of conciliation may be established, with such powers and duties as may be prescribed by law; but such tribunals shall have no power to render judgment to be obligatory on the parties, except they voluntarily submit their matters in difference and agree to abide the judgment or assent thereto, in the presence of such tribunal, in such cases as shall be prescribed by law.

The same, because it is the very proper and original business of the justices of the peace.

24. The Legislature, at its first session after the adoption of this Constitution, shall provide for the appointment of three commissioners, whose duty it shall be to revise, reform, simplify and abridge the rules and practice, pleadings, forms and proceedings of the courts of record of this State, and to report thereon to the Legislature, subject to their adoption and modification from time to time.

Is superfluous, because it ought to be the business of the courts.

25. The Legislature, at its first session after the adoption of this Constitution, shall provide for the organization of the Court of Appeals, and for transferring to it the business pending in the Court for the Correction of Errors, and for the allowance of writs of error and appeals to the Court of Appeals, from the judgments and decrees of the present Court of Chancery and Supreme Court, and of the Courts that may be organized under this Constitution.

When organizing courts, the English judicial system should not be imitated, because it is mere patchwork, and of the worst kind.

ARTICLE VII. *Finance*.—1. After paying the expenses of collection, superintendence and ordinary repairs, there shall be appropriated and set apart in each fiscal year, out of the revenues of the State canals, commencing on the first day of June, 1846, the sum of one million and three hundred thousand dollars, until the first day of June, 1855, and from that time, the sum of one million and seven hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the State debt called the canal debt, as it existed at the time aforesaid, and including three hundred thousand dollars then to be borrowed until the same shall be wholly paid; and the principal and income of the said sinking fund shall be sacredly applied to that purpose.

Does not belong in the Constitution.

2. After complying with the provisions of the first section of this article, there shall be appropriated and set apart out of the surplus revenues of the State canals, in each fiscal year, commencing on the first day of June, 1846, the sum of three hundred and fifty thousand dollars, until the time when a sufficient sum shall have been appropriated and set apart, under the said first section, to pay the interest and extinguish the entire principal of the canal debt; and after that period, then the sum of one million and five hundred thousand dollars in each fiscal year, as a sinking fund, to pay the interest and redeem the principal of that part of the State debt called the General Fund debt, including the debt for loans of the State credit to railroad companies which have failed to pay the interest thereon, and also the contingent debt on State stocks loaned to incorporated companies which have hitherto paid the interest thereon whenever and as far as any part thereof may become a charge on the Treasury or General Fund, until the same shall be wholly paid; and the principal and income of the said last mentioned sinking fund shall be sacredly applied to the purpose aforesaid; and if the payment of any part of the moneys to the said sinking fund shall at any time be deferred, by reason of the priority recognized in the first section of this article, the sum so deferred, with quarterly interest thereon, at the then current rate, shall be paid to the last mentioned sinking fund, as soon as it can be done consistently with the just rights of the creditors holding said canal debt.

As before.

3. After paying the said expenses of superintendence and repairs of the canals, and the sum appropriated by the first and second sections of this article, there shall be paid out of the surplus revenues of the canals, to the Treasury of the State, on or before the thirtieth day of September, in each year, for the use and benefit of the General Fund, such sum, not exceeding \$200,000, as may be required to defray the necessary expenses of the State; and the remainder of the revenues of the said canals shall, in each fiscal year, be applied, in such manner as the Legislature shall direct, to the completion of the Erie Canal enlargement, and the Genesee Valley and Black River canals, until the said canals shall be completed.

As before.

If at any time after the period of eight years from the adoption of this Constitution, the revenues of the State, unappropriated by this article, shall not be sufficient to defray the necessary expenses of the

Government, without continuing or laying a direct tax, the Legislature may, at its discretion, supply the deficiency, in whole or in part, from the surplus revenues of the canals, after complying with the provisions of the first two sections of this article, for paying the interest and extinguishing the principal of the Canal and General Fund debt; but the sum thus appropriated from the surplus revenues of the canal shall not exceed annually \$350,000, including the sum of \$200,000, provided for by this section for the expenses of the Government, until the General Fund debt shall be extinguished, or until the Erie Canal enlargement and Genesee Valley and Black River Canals shall be completed, and after that debt shall be paid, or the said canals shall be completed, then the sum of \$672,500, or so much thereof as shall be necessary, may be annually appropriated to defray the expenses of the Government.

4. The claims of the State against any incorporated company to pay the interest and redeem the principal of the stock of the State loaned or advanced to such company, shall be fairly enforced, and not released or compromised; and the moneys arising from such claims shall be set apart and applied as part of the sinking fund provided in the second section of this article. But the time limited for the fulfilment of any condition of any release or compromise heretofore made or provided for, may be extended by law.

Matter of course, but in the beginning erroneous to give State credit to corporations.

5. If the sinking funds, or either of them provided in this article, shall prove insufficient to enable the State on the credit of such fund, to procure the means to satisfy the claims of the creditors of the State, as they become payable, the Legislature shall, by equitable taxes, so increase the revenues of the said funds as to make them, respectively, sufficient perfectly to preserve the public faith. Every contribution or advance to the canals, or their debt, from any source, other than their direct revenues shall, with quarterly interest, at the rates then current, be repaid into the Treasury, for the use of the State, out of the canal revenues, as soon as it can be done consistently with the just rights of the creditors holding the said canal debt.

6. The Legislature shall not sell, lease, or otherwise dispose of any of the canals of the State; but they shall remain the property of the State and under its management forever.

Is a fatal error. The word forever is wrong. It does not belong to the province of States to make canals. Railroads render canals superfluous, because they exceed them in cheapness, expedition, certainty and regularity. Therefore each dollar spent on these canals is a public loss. They are public nuisances, because they can only do business by force of laws, which prohibit free competition. And such nuisance shall last forever? Sell them as soon as possible.

7. The Legislature shall never sell or dispose of the salt springs belonging to this State. The lands contiguous thereto and which may be necessary and convenient for the use of the salt springs, may be sold by authority of law, and under the direction of the commissioners of the land office, for the purpose of investing the moneys arising therefrom, in other lands alike convenient; but by such sale and purchase the aggregate quantity of these lands shall not be diminished.

Is another fatal error. The making of salt is a business of everybody.

8. No moneys shall ever be paid out of the treasury of this State,

or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation act; and every such law making a new appropriation, or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.

9. The credit of the State shall not, in any manner, be given or loaned to, or in aid of any individual, association or corporation.

Is matter of course.

10. The State may, to meet casual deficits or failures in revenues, or for expenses not provided for, contract debts, but such debts, direct and contingent, singly or in the aggregate, shall not, at any time, exceed one million of dollars; and the moneys arising from the loans creating such debts, shall be applied to the purpose for which they were obtained, or to repay the debt so contracted, and to no other purpose whatever.

It is against all probability that, if a State has nothing to do with improper business, and raises the necessary funds (which will be only very limited) by direct taxation, there will be any need of contracting debts.

11. In addition to the above limited power to contract debts, the State may contract debts to repel invasion, suppress insurrection, or defend the State in war; but the money arising from the contracting of such debts shall be applied to the purpose for which it was raised, or to repay such debts, and to no other purpose whatever.

Not in accordance with the principle of self-government.

12. Except the debts specified in the tenth and eleventh sections of this article, no debt shall hereafter be contracted by or on behalf of this State, unless such debt shall be authorized by a law for some single work or object, to be distinctly specified therein, and such law shall impose and provide for the collection of a direct annual tax to pay, and sufficient to pay the interest on such debt as it falls due, and also to pay and discharge the principal of such debt within eighteen years from the time of the contracting thereof.

No such law shall take effect until it shall, at a general election, have been submitted to the people, and have received a majority of all the votes cast for and against it, at such election.

On the final passage of such bill in either house of the Legislature, the question shall be taken by ayes and noes, to be duly entered on the journals thereof, and shall be:—"Shall this bill pass, and ought the same to receive the sanction of the people?"

The legislature may at any time, after the approval of such law by the people, if no debt shall have been contracted in pursuance thereof, repeal the same; and may, at any time, by law, forbid the contracting of any farther debt or liability under such law; but the tax imposed by such act, in proportion to the debt and liability which may have been contracted in pursuance of such law, shall remain in force and be irrepealable, and be annually collected until the proceeds thereof shall have made the provision hereinbefore specified, to pay and discharge the interest and principal of such debt and liability.

The money arising from any loan or stock creating such debt or liability, shall be applied to the work or object specified in the act au-

thorizing such debt or liability, or for the repayment of such debt or liability, and for no other purpose whatever.

No such law shall be submitted to be voted on, within three months after its passage, or at any general election, when any other law or any bill or any amendment to the Constitution, shall be submitted to be voted for or against.

13. Every law which imposes, continues or revives a tax, shall distinctly state the tax and the object to which it is to be applied, and it shall not be sufficient to refer to any other law to fix such tax or object.

14. On the final passage in either house of the Legislature, of every act which imposes, continues or revives a tax, or creates a debt or charge, or makes, continues, or revives any appropriation of public or trust-money or property, or releases, discharges or commutes any claim or demand of the State, the question shall be taken by yeas and noes, which shall be duly entered on the journals, and three-fifths of all the members elected to either house shall, in all such cases, be necessary to constitute a quorum therein.

ARTICLE VIII. *Corporations.*—1. Corporations may be formed under general laws; but shall not be created by special act, except for municipal purposes, and in cases where in the judgment of the Legislature the objects of the corporation cannot be attained under general laws. All general laws and special acts passed pursuant to this section, may be altered from time to time or repealed.

Against the principle of self-government. The whole article does not belong in a Constitution.

2. Dues from corporations shall be secured by such individual liability of the corporators and other means as may be prescribed by law.

3. The term corporations as used in this article shall be construed to include all associations and joint-stock companies having any of the powers or privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue and shall be subject to be sued in all courts in like cases as natural persons.

4. The Legislature shall have no power to pass any act granting any special charter for banking purposes; but corporations or associations may be formed for such purposes under general laws.

5. The Legislature shall have no power to pass any law sanctioning in any manner, directly or indirectly, the suspension of specie payments, by any person, association or corporation issuing bank notes of any description.

6. The Legislature shall provide by law for the registry of all bills or notes, issued or put in circulation as money, and shall require ample security for the redemption of the same in specie.

Is a fatal error.

7. The stockholders in every corporation and joint-stock association for banking purposes, issuing bank notes or any kind of paper credits to circulate as money, after the first day of January, 1850, shall be individually responsible to the amount of their respective share or shares of stock in any such corporation or association, for all its debts and liabilities of every kind, contracted after the said first day of January 1850.

Is unjust. The loss of a share of stock is all a stockholder must have to risk, because a stock association business is generally a hazardous one, and will not be

entered into if their nature shall be changed by laws. Let bankers alone. Laws do here more mischief than good.

8. In case of the insolvency of any bank or banking association, the bill holders thereof shall be entitled to preference in payment, over all other creditors of such bank or association.

Belongs in the bankrupt law.

9. It shall be the duty of the Legislature to provide for the organization of cities and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts and loaning their credit, so as to prevent abuses in assessments and in contracting debt by such municipal corporations.

Such corporations cannot occur in a well organized self-governing commonwealth.

ARTICLE IX. *Education*.—1. The capital of the common school fund, the capital of the literature fund, and the capital of the U. S. deposit fund, shall be respectively preserved inviolate. The revenue of the said common school fund shall be applied to the support of common schools; the revenues of the said literature fund shall be applied to the support of academies, and the sum of \$25,000 of the revenues of the U. S. deposit fund shall each year be appropriated to and make a part of the capital of the said common school fund.

Belongs to the management of the freemen in towns. Nurseries are no objects for State governments.

ARTICLE X. *Local Officers*.—1. Sheriffs, clerks of counties, including the register and clerk of the city and county of New York, coroners and district attorneys, shall be chosen by the electors of the respective counties, once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years, after the termination of their offices. They may be required, by law, to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff.

Subaltern officers deserve no place in a Constitution. The whole article does not belong in a Constitution.

The governor may remove any officer, in this section mentioned, within the term for which he shall have been elected; giving to such officer a copy of the charges against him, and an opportunity of being heard in his defence.

2. All county officers whose election or appointment is not provided for, by this Constitution, shall be elected by the electors of the respective counties, or appointed by the boards of supervisors, or other county authorities, as the Legislature shall direct. All city, town and village officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and villages, or of some division thereof, or appointed by such authorities thereof as the Legislature shall designate for that purpose. All other officers whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the Legislature may direct.

3. When the duration of any office is not provided by this Constitution, it may be declared by law, and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

4. The time of electing all officers named in this article shall be prescribed by law.

5. The Legislature shall provide for filling vacancies in office, and in case of elective officers, no person appointed to fill a vacancy shall hold his office by virtue of such appointment longer than the commencement of the political year next succeeding the first annual election after the happening of the vacancy.

6. The political year and legislative term shall begin on the first day of January, and the Legislature shall assemble on the first Tuesday in January, unless a different day may be appointed by law.

7. Provision shall be made by law for the removal for misconduct or malversation in office of all officers (except judicial) whose powers and duties are not local and legislative, and who shall be elected at general elections, and also for supplying vacancies created by such removals.

8. The Legislature may declare the cases in which any office shall be deemed vacant, where no provision is made for that purpose in this Constitution.

ARTICLE XI. *Militia*.—1. The militia of this State shall at all times hereafter be armed and disciplined, and in readiness for service; but all such inhabitants of this State, of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused therefrom, upon such condition as may be prescribed by law.

The whole article is not in harmony with the principle of self-government.

2. Militia officers shall be chosen or appointed, as follows: captains, subalterns and non-commissioned officers shall be chosen by the written votes of members of their respective companies. Field officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments and separate battalions; brigadier generals and brigade inspectors by the field officers of their respective brigades; major generals, brigadier generals and commanding officers of regiments or separate battalions, shall appoint the staff officers to their respective divisions, brigades, regiments or separate battalions.

3. The Governor shall nominate, and with the consent of the Senate, appoint all major generals, and the commissary general. The adjutant general and other chiefs of staff departments; and the aids-de-camp of the commander-in-chief shall be appointed by the Governor, and their commissions shall expire with the time for which the Governor shall have been elected. The commissary general shall hold his office for two years. He shall give security for the faithful execution of the duties of his office, in such manner and amount as shall be prescribed by law.

4. The legislature shall, by law, direct the time and manner of electing militia officers, and of certifying their elections to the Governor.

5. The commissioned officers of the militia shall be commissioned by the Governor; and no commissioned officer shall be removed from

office, unless by the Senate on the recommendation of the Governor, stating the grounds on which such removal is recommended, or by the decision of a court martial, pursuant to law. The present officers of the militia shall hold their commissions subject to removal as before provided.

6. In case the mode of election and appointment of militia officers hereby directed, shall not be found conducive to the improvement of the militia, the Legislature may abolish the same and provide by law for their appointment and removal, if two-thirds of the members present in each house, shall concur therein.

ARTICLE XII. *Oaths*.—1. Members of the Legislature, and all officers, executive and judicial, except such inferior officers as may be by law exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:—

“I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States, and the Constitution of the State of New York; and that I will faithfully discharge the duties of _____ according to the best of my ability.”

And no other oath, declaration or test, shall be required as a qualification for any office or public trust.

Oaths are objectionable.

ARTICLE XIII. *Amendments*.—1. Any amendment or amendments to this Constitution may be proposed in the Senate and Assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals with the yeas and nays taken thereon, and referred to the Legislature to be chosen at the next general election of Senators, and shall be published, for three months previous to the time of making such choice, and if in the Legislature so next chosen, as aforesaid, such proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the Legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the Legislature shall prescribe; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of Legislature, voting thereon, such amendment or amendments shall become part of the Constitution.

2. At the general election to be held in the year eighteen hundred and sixty-six, and in each twentieth year thereafter, and also at such time as the legislature may by law provide, the question, “Shall there be a Convention to revise the Constitution and amend the same?” shall be decided by the electors qualified to vote for members of the Legislature; and in case majority of the electors so qualified, voting at such election, shall decide in favor of a Convention for such purpose, the Legislature at its next session, shall provide by law for the election of delegates to such Convention.

Does not belong in a Constitution.

ARTICLE XIV. *Miscellaneous*.—1. The first election of Senators and Members of Assembly, pursuant to the provisions of this Constitution, shall be held on the Tuesday succeeding the first Monday of November, one thousand eight hundred and forty-seven.

The Senators and Members of Assembly who may be in office on the first day of January, one thousand eight hundred and forty-seven, shall hold their offices until and including the thirty-first day of December following, and no longer.

2. The first election of Governor and Lieutenant-Governor under this Constitution, shall be held on the Tuesday succeeding the first Monday of November, 1848; and the Governor and Lieutenant-Governor in office when this Constitution shall take effect, shall hold their respective offices until and including the 31st day of December of that year.

3. The Secretary of State, Comptroller, Treasurer, Attorney General, District Attorneys, Surveyor General, Canal Commissioners, and Inspectors of State Prisons, in office when this Constitution shall take effect, shall hold their respective offices until and including the 31st day of December, 1847, and no longer.

4. The first election of Judges and Clerk of the Court of Appeals, Justices of the Supreme Court and County Judges, shall take place at such time between the first Tuesday of April and the second Tuesday of June, 1847, as may be prescribed by law. The said courts shall respectively enter upon their duties, on the first Monday of July, next thereafter, but the term of office of said Judges, Clerk and Justices as declared by this Constitution, shall be deemed to commence on the first day of January, 1848.

5. On the first Monday of July, 1847, jurisdiction of all suits and proceedings then pending in the present Supreme Court and Court of Chancery, and all suits and proceedings originally commenced and then pending in any court of common pleas (except in the city and county of New York,) shall become vested in the Supreme Court hereby established. Proceedings pending in courts of common pleas and in suits originally commenced in justices' courts shall be transferred to the county courts provided for in this Constitution, in such manner and form, and under such regulation as shall be provided by law. The courts of Oyer and Terminer hereby established, shall, in their respective counties, have jurisdiction, on and after the day last mentioned, of all indictments and proceedings then pending in the present courts of Oyer and Terminer; and also of all indictments and proceedings then pending in the present courts of general sessions of the peace, except in the city of New York, and except in cases of which the courts of sessions hereby established may lawfully take cognizance; and of such indictments and proceedings the courts of sessions hereby established, shall have jurisdiction on and after the day last mentioned.

6. The Chancellor and the present Supreme Court shall, respectively, have power to hear and determine any of such suits and proceedings ready on the first Monday of July, 1847, for hearing or decision, and shall, for their services therein, be entitled to their present rates of compensation until the first day of July, 1848, or until all such suits and proceedings shall be sooner heard and determined. Masters in Chancery may continue to exercise the functions of their office in the Court of Chancery, so long as the Chancellor shall continue to exercise the functions of his office under the provisions of this Constitution.

And the Supreme Court hereby established shall also have power to hear and determine such of said suits and proceedings as may be prescribed by law.

7. In case any vacancy shall occur in the office of Chancellor or Justice of the present Supreme Court, previously to the 1st day of July, 1848, the Governor may nominate, and by and with the advice and consent of the Senate, appoint a proper person to fill such vacancy. Any Judge of the Court of Appeals or Justice of the Supreme Court, elected under this Constitution, may receive and hold such appointment.

8. The offices of chancellor, justice of the existing supreme court, circuit judge, vice-chancellor, assistant vice-chancellor, judge of the existing county courts of each county, supreme court commissioner, master in chancery, examiner in chancery, and surrogate (except as herein otherwise provided,) are abolished from and after the first Monday of July, 1847.

9. The Chancellor, the Justices of the present Supreme Court, and the Circuit Judges, are hereby declared to be severally eligible to any office at the first election under this Constitution.

Is superfluous.

10. Sheriffs, clerks of counties (including the register and clerk of the city and county of New York,) justices of the peace and coroners, in office when this Constitution shall take effect, shall hold their respective offices until the expiration of the term for which they were respectively elected.

Seems to be matter of course.

11. Judicial officers in office when this Constitution shall take effect may continue to receive such fees and perquisites of office as are now authorized by law, until the first day of July, 1847, notwithstanding the provisions of the twentieth section of the 6th article of this Constitution.

12. All local courts established in any city or village, including the superior court, common pleas, sessions and surrogate's courts of the city and county of New York, shall remain, until otherwise directed by the Legislature with their present powers and jurisdiction; and the judges of such courts and any clerks thereof in office on the first day of January, 1847, shall continue in office until the expiration of their terms of office, or until the Legislature shall otherwise direct.

Sections 1, 2, 3, 4, 5, 6, 10, 11, 12, do not belong in a Constitution.

13. This Constitution shall be in force from and including the first day of January, 1847, except as is herein otherwise provided.

ON
SELF-GOVERNMENT;

TOGETHER WITH GENERAL PLANS OF A
STATE CONSTITUTION,

AND A CONSTITUTION FOR A
CONFEDERATION OF STATES,

FOUNDED ON THE PRINCIPLE OF SELF-GOVERNMENT;

ALSO,

TWO EXTRACTS, ONE FROM THE CONSTITUTION OF THE
UNITED STATES OF NORTH AMERICA, THE OTHER
FROM THAT OF THE STATE OF KENTUCKY.

TO WHICH IS ADDED

THE NEW CONSTITUTION OF
THE STATE OF NEW YORK,

EXAMINED ACCORDING TO THE PRINCIPLE OF SELF-GOVERNMENT.

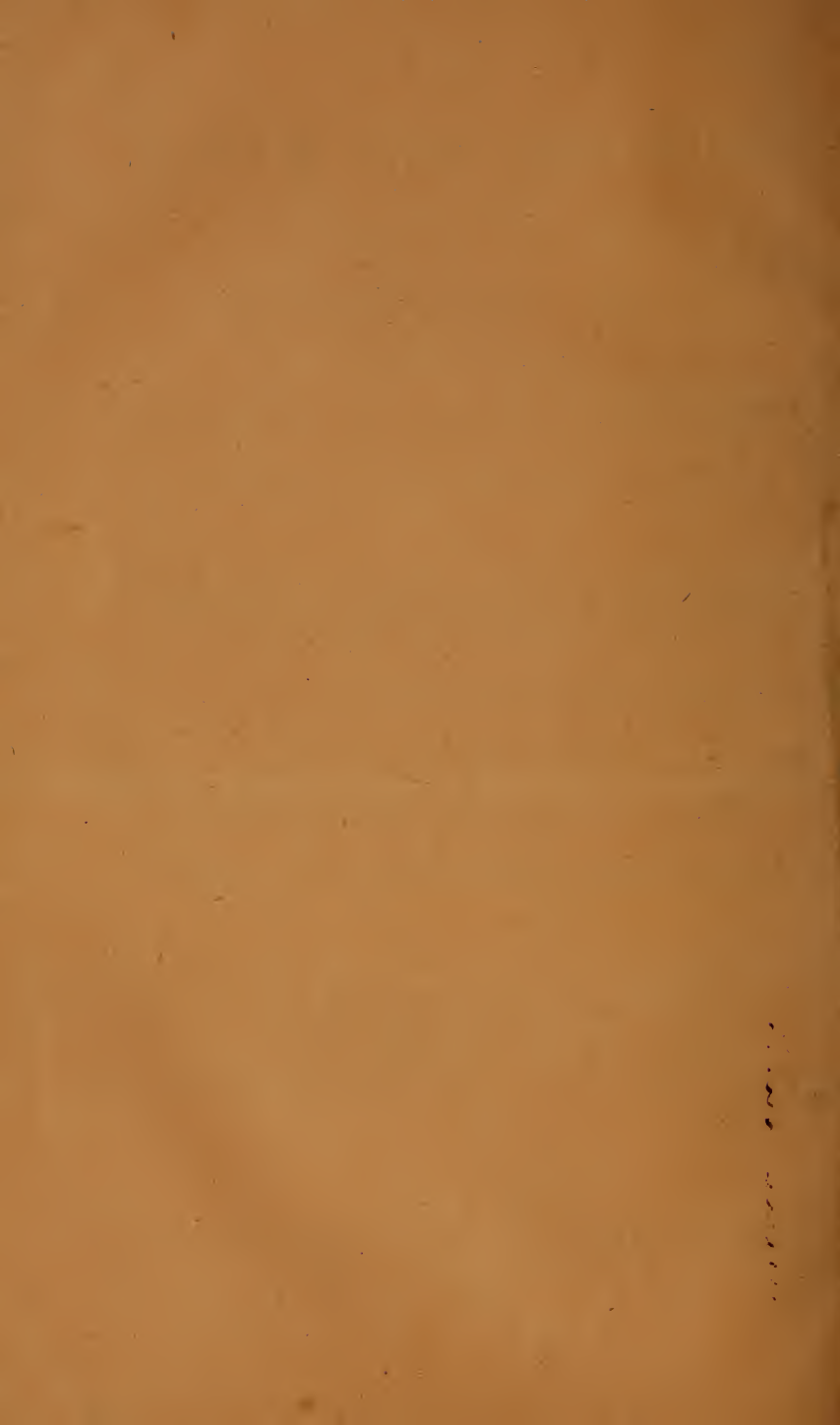
"For he who values liberty, confines
His zeal for her predominance within
No narrow bounds; her cause engages him
Wherever pleaded."—COWPER.

"We have no strength except upon great principles."—ELIHU BURRITT.

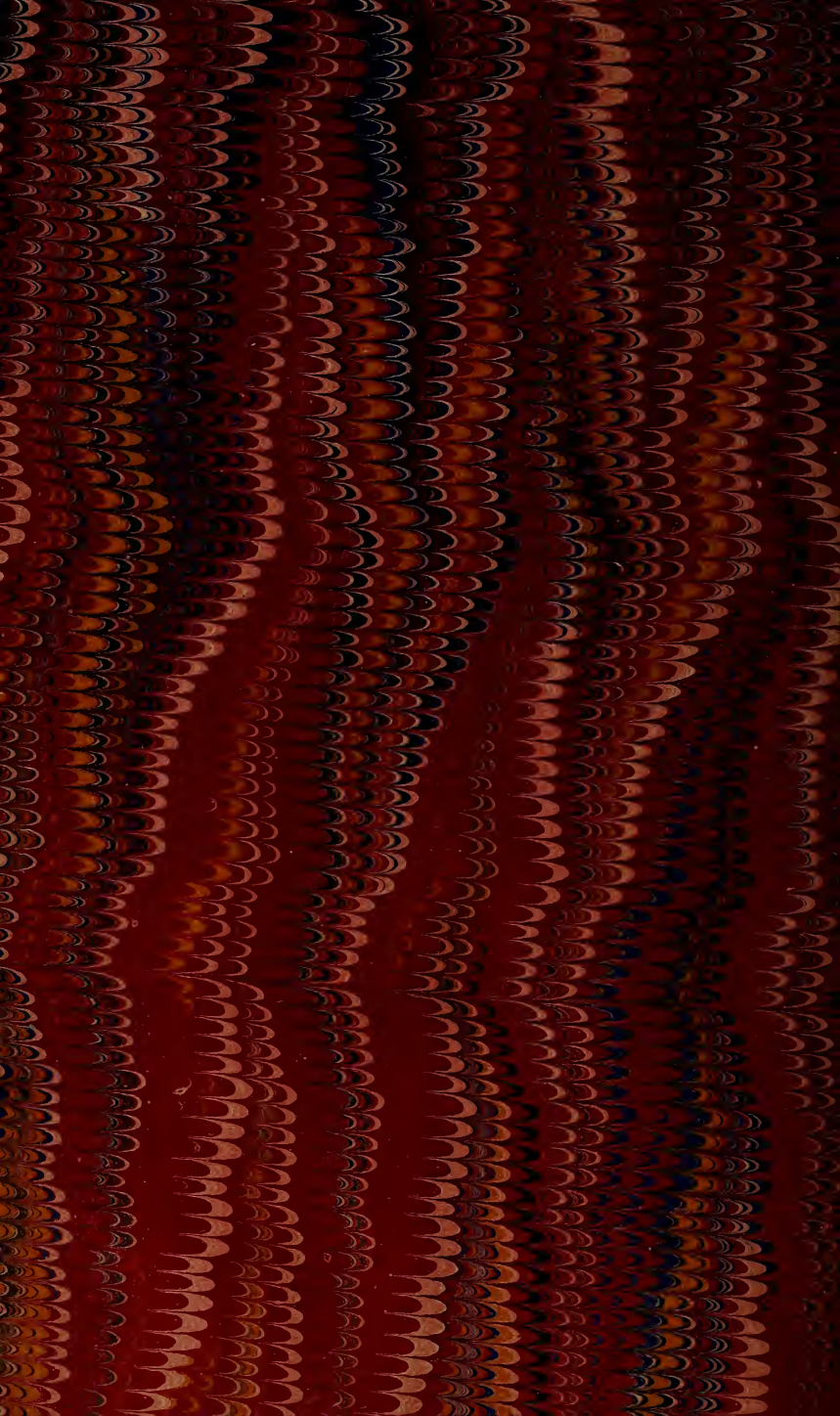
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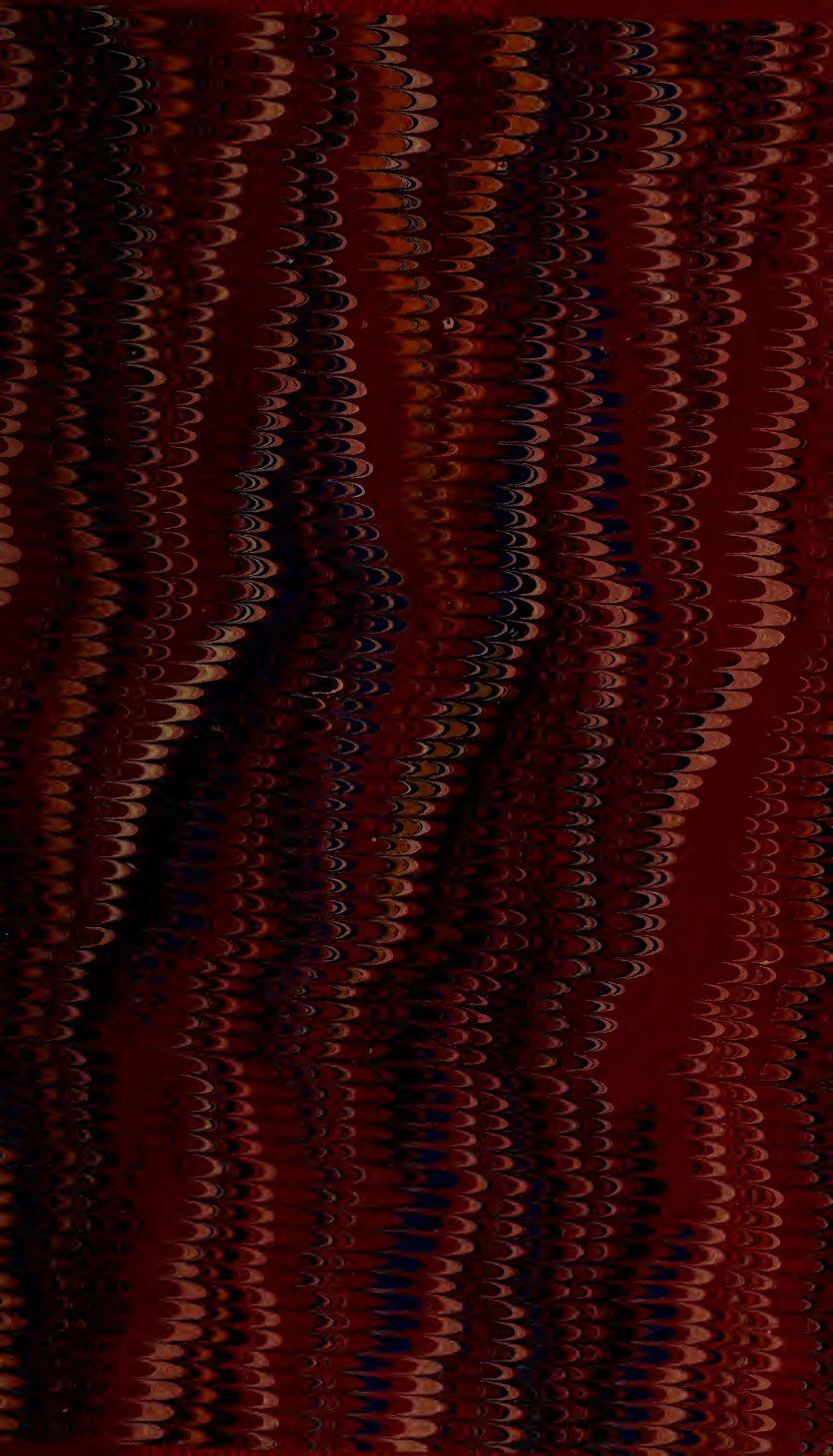
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AND OTIS CLAPP, 12 SCHOOL STREET.

1847.

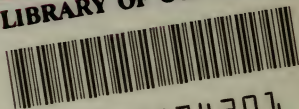








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